

Annual Report Summary 2013



SPANISH OMBUDSMAN



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Summary

Presentation.....	9
2013 Statistics and Management Report	15
Supervision of Public Administrations	
1. Security and Justice	
The mediation of the Spanish Ombudsman Institution meant a reduction in the judicial fees for citizens	37
2. Migrations and Equal Treatment	
The Spanish Ombudsman's human trafficking-related recommendations have meant major improvements for trafficking victims in 2013.....	46
3. Education and Civil Service	
The Government accepts the determinations put forth by this Institution for promoting the reuse of textbooks	53
4. Healthcare and Social Policy	
The Administration is incorporating recommendations from the Spanish Ombudsman into the new phase of the Suppliers Plan.....	59
5. Housing	
"Vacant Government-Subsidized Housing" study recommendations well taken	68
6. Economy and Finance	
The investigations concerning preferred shares, mortgage debtors and personal insolvency were the focal points of this Institution's activity	72
7. Environment and Urban Development	
The Government will be incorporating the Spanish Ombudsman's recommendations into the Coastal Law Regulations.....	82
8. National Preventive Mechanism Against Torture	
The Spanish Ombudsman Institution visited 60 centers for the deprivation of liberty in its NPM capacity	90
Institutional Representation Activities	93

Presentation

The report presented in 2012 confirmed the difficult economic situation Spain was experiencing as being quite clearly reflected in subject matter of the complaints lodged and also in the investigations opened by this Institution and the requests for appeals on the grounds of unconstitutionality. This 2013 report is revealing of the fact that no sudden change has taken place in those circumstances, and that the economic difficulties are continuing, although we may take encouragement in the prospects over these last few months for times to come.

This 2013 Report is being presented in two volumes. Chapter 1 of the first of these two volumes includes the summarized statistics for all of the measures carried out; complaints lodged with our Institution; suggestions and recommendations put forth to the public administrations; ex-officio investigations, the requests for the filing of appeals on the grounds of unconstitutionality, as well as the itemized budget for 2013, approved by Spanish Parliament; the listing of those administrations failing to cooperate with this Institution despite their having been repeatedly requested to do so, as well as the most outstanding institutional representation activities in national and international forums.

Chapter II of this volume provides a description of the supervision of activity of the public administrations, also detailing the most important investigations conducted by this Institution. Also included is a mention as to this Institution's endeavors in its capacity as a National Preventive Mechanism Against Torture.

The second part of this volume, published solely in an electronic version and which can be read on the Institution's website, includes the complete 2013 statistics and data, the list of all of the ex-officio investigations conducted, all of the determinations put forth, the full list of all of the uncooperative administrations and all of the institutional activities.

The budget for 2013 totaled 14,021,300 €, having meant an overall 3.25% lower budget than for the previous year and nearly half a million euros (more specifically 471,600 euros) less. The personnel expenditures were cut by 3.75% in the 2013 budget. There were no pay increases for any of the high-ranking officials or for the civil servants or any other personnel. Nevertheless, despite the lower budget for personnel expenditures, it was possible to call for applications for two new openings for civil service urban planning and environment engineers, which was done by means of a public procedure fully respecting the constitutional principles of merit and capability.

Under the heading of current expenditures on goods and services in 2013, there was a 0.84% reduction, which was less than the reduction in the other heading, taking into account the rise in the VAT in 2013 on many of the items under this heading and the major reduction which this item had already undergone in 2011 and 2012. Special mention must be made of the 19.46% reduction in the item related to indemnifications for service as a result of the elimination of daily allowances for high-ranking officials and civil servants which had already taken place the previous year. The itemized budget is available on the Institution's website and has been prepared following the instructions of the Transparency International organization.

The overall budget reduction does not affect the Institution's essential functions, but special mention must be made of the effort made, similar to that of public entities and administration, as well as that of a vast majority of citizens, businessmen and non-governmental organizations, to restrict their spending or which have been affected by major cutbacks in their income.

The effort made by the people of Spain over the course of these years to contribute to overcoming an economic crisis must be stressed, and it is the wish of the Ombudsman Institution to so state for the record.

The prevailing philosophy this year has been that of placing prime importance on obtaining positive responses from the administrations in all those requests which have been lodged with them through different channels.

The legitimation of this Institution is determined by its effectiveness, which means not settling into merely taking and processing citizen complaints and requests, but rather seeing mainly to their being given all due attention and, in certain cases, the necessary corrections being made. It is for this reason that this

report provides a table of all of the recommendations and suggestions put forth, although one must bear in mind that, at the closing of this report, a response had not as yet been provided to all thereof, these responses being anticipated to be obtained during the first few months of the current year.

This Institution has endeavored to maintain good working relations with all of the public agencies and with the Attorney General's Office, because the Ombudsman is not an institution which litigates but rather an institution which, by means of what it considers just reasons and arguments, requests the necessary information and tries to convince one and another of its recommendations.

The relations with the Autonomous Community Ombudsmen have also been ones of cooperation and respect in their respective fields of authority, an attempted having been made to avoid duplicating measures.

A response is always provided to all of the complaints and requests lodged with the Ombudsman. Regarding those which do not come under the authority of this Institution or which are before the court and which therefore cannot be processed at the time, an explanation is provided as to the reasons and, if possible, the citizen in question is provided with guidance as to other channels to be pursued.

The number of appeals on the grounds of unconstitutionality has dropped considerably compared to 2012, the year in which many civil servants, whose bonus pay had been eliminated, requested the filing of appeals. It is advisable to state here that, many times, the citizens who request the filing of an appeal are actually expressing their discrepancy with the law and this this discrepancy or rejection does not mean grounds for unconstitutionality.

Especially noteworthy this year is the action taken following the passage of the Judicial Fees Act, as said fees were considered to be extremely high. A great number of complaints and requests for appeals on the grounds of unconstitutionality were lodged with our Institution, as a result of which recommendations were put forth to the Ministry of Justice including major amendments of the law, such as a reduction or the variable fees and the Law on Free Legal Aid being hastened, which were accepted.

The binding decision handed down by the European Court of Human Rights in November against the

application of what is known as the “Parot Doctrine” with regard to serving prison sentences has been very hard Spain and for the victims of terrorism, and they have so manifested before the Ombudsman having wanted to know how Spain’s position had been defended and also the measures taken following the releases from prison so as to prevent acts glorifying terrorism. The responses obtained were forwarded to those victims who had requested that the Ombudsman take action, said victims having all of this Institution’s support and understanding, as Spanish society is in their debt.

A remarkable reduction in the aid for purchasing school textbooks has been noted over the course of this year on the part of both the Autonomous Communities as well as the Central Government. Therefore, in view of the complaints lodged with our Institution, a report was prepared for the purpose of ascertaining public aid provided for the purchase of books and making the fitting recommendations, most especially with regard to increasing the amounts allocated in the upcoming budgets, as well as promoting the reuse of school textbooks, not only for economic reasons but also for the purpose of fostering the good use of assets acquired with public funds.

A request has been placed with the Ministry of Finance and Public Administrations in order for the civil servants whose children have serious diseases to be entitled to the leave under the same conditions as the parents included under the general Social Security regime, this being a request having met with acceptance.

Concerning the subject of social welfare, the cutbacks have been quite clearly noted, and in view of the concern for the debts owed by various administrations to entities which provide these services, a request has been placed with the Ministry of Finance for the funds set up for the payment of debts to be allocated, first of all, to those debts owed to this type of welfare services. This request has been accepted by the Ministry.

This Institution has found the fact of no free healthcare being provided for immigrants who are not legally residing in this country, with the exception of minors, pregnant women and serious diseases to be cause for concern, having led it to put forth recommendations which have not met with acceptance, but it must be said that Autonomous Communities and non-governmental organizations have set up their own procedures for achieving the necessary care.

The complaints from those who are not receiving the aid stipulated for providing care for persons with disabilities have been conveyed, several times, to different administrations. The responses are not homogeneous, a general concern regarding the delays involved being perceived.

Prescription drug copay being introduced has also given rise to complaints, based on the amounts for persons on low incomes and disabled. The recommendations put forth requesting the exemption for these persons have not been accepted, although the commitment exists of redefining the percentages to be paid.

As a follow-up to the study on “Economic Crisis and Mortgage Debtors” published in 2012, a further analysis has been made of the situation of persons who are burdened with large debts due both to the mortgages on their homes and for reasons of unemployment of other extreme circumstances. The result of the work in 2012 is a document titled “Economic Crisis and Personal Insolvency”. After comparing the legislations of other countries in the European Union, the suggestion is made of reviewing the Spanish legislation so as to facilitate negotiation with the credit institutions on the part of the debtors in good faith and prevent a large number of families who are in these circumstances from finding themselves bound to lose all of their assets without any possibility of getting their working, professional and personal lives back on track. This is a matter of relieving the financial burden of the families deepest in debt and preventing their social exclusion. A response from the Administration is currently pending.

Complaints concerning the “preferred shares” have continued throughout the year. The need has been put forth to the Bank of Spain several times of the financial institutions facilitating the arbitration for all those customers who have felt they have been swindled regarding this complex, highly intricate financial product which they had been sold without meeting the conditions of “idoneity and advisability” as consumers. Although there are many people who have now managed to have their savings or part thereof restored, this Institution is keeping close watch over the arbitration processes and the arbitration awards.

In the Ombudsman’s opinion, due to the number of complaints received, the Bank of Spain should keep very close watch over the information the customers of banking institutions are given concerning the new mortgage index as well as on the review of the ground clauses.

The economic circumstances have led many families to being unable either to meet their mortgage commitments or their legitimate intentions of gaining access to a home. In view of the complaints received and the knowledge of these circumstances, the Ombudsman undertook the preparation of a report for ascertaining the number of vacant public housing units under the ownership of the Autonomous Communities and large Municipal Governments. This report, presented to Spanish Parliament in March, reveals the existence of a large number of government-subsidized housing units which are currently unoccupied for different reasons, including for reasons of their selling prices.

In view of the results of this report, a request was placed with the administrations, asking that they make the necessary efforts to put these housing units up for rent at affordable prices at this point in time. The Ombudsman now intends to check to ascertain the results of the recommendations made.

Some major recommendations have been made concerning the Law for the Protection and Sustainable Use of the Coastline with regard to the Regulations expanding upon the same. These recommendations have been aimed, on one hand, at setting out scientific criteria for defining the areas where the land and sea meet and, on the other hand, setting up guarantees for the conservation of the coastline and active public involvement in the planning.

In 2013, an update of the conclusions and recommendations to the public administrations, included in the monographic report "Human Trafficking in Spain: Invisible Victims", published in 2012, was presented. In addition to acknowledging the improvements found to have been made in the different procedures, the aforementioned study sets out those issues regarding which greater effort is still as yet needed to be made in order to move forward in effectively protecting the victims of trafficking in Spain.

During this year, the need of protecting victims beyond their condition of being key witnesses in criminal proceedings has been reiterated, a reminder having been put forth as to the currently pending conditions of collaborating with the non-governmental agencies which work with the victims, the reports of which should, in the Ombudsman's judgment, be taken into account by the competent authorities in the decisions concerning the granting of residence permits. Some major measures have also been taken for correctly identifying undocumented minors who enter the country

and who may be supposed victims of trafficking. However, despite the efforts made, there is still as yet a great deal left to be done with regard to effectively safeguarding these children.

Special attention has also been devoted to the supervision of the centers for deprivation of liberty carried out by the National Mechanism for Prevention of Torture (NPM). This year, the full design of the NPM has been completed with the nomination and appointment of the Members of the Advisory Council, which has already held two meetings.

In 2013, a total of 60 inspection visits were made to detention centers, the Ombudsman having accompanied the NPM technical experts on 15 thereof. Members of the Advisory Council took part in four of the visits conducted. An operation was also supervised for the repatriation of foreigners to Ecuador and Colombia by a NPM technical expert and a forensic physician. A total of 20 of these visits were multi-disciplinary, in other words, with external healthcare professional providing an especially qualified focus when assessing certain scope and protocols of the center visited and conducting the individual interviews with the detainees. As a result of these inspections, a total of 21 Recommendations, 92 Suggestions and 4 Reminders of Legal Duties were put forth.

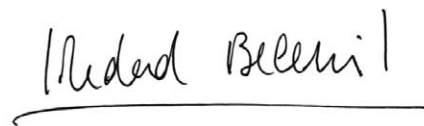
The international bodies including the OSCE, European Commission, Council of Europe and United Nations have visited the Ombudsman for assessing mainly the respect for human rights in Spain. Visits have also been received from eleven ombudsman institutions for the purpose of familiarizing themselves with some of this Institution's measures and good practices. The European Union has additionally selected the Ombudsmen of Spain and France to carry out a training project with the ombudsman institution in Turkey commencing in 2014.

The relations with the Ombudsmen in the Ibero-American and Mediterranean countries are quite close, there being many issues requiring joint action being taken, such as, for example, the assistance provided to Spaniards imprisoned abroad.

Over the course of 2012, in addition to the required appearance before the Joint Commission for Relations with the Ombudsman and then the due appearances before the plenary sessions of both the Congress of Deputies and Senate, appearances have been made before the Commission on four further occasions

for the purpose of reporting on the work under way, quite particularly documents and reports made on aspects deemed of interest in light of economic and social circumstances worthy of more in-depth study.

Thanks are in order to the Joint Commission for the interest shown toward this Institution in the different appearances made and also for the suggestions and comments contributed by Deputies and Senators.

A handwritten signature in black ink, reading "Soledad Becerril", is written above a horizontal line.

Soledad Becerril

SPANISH OMBUDSMAN

2013 Statistics and Management Report

Statistics

The Spanish Ombudsman Institution put forth more than 700 recommendations and suggestions to the Administration

The Ombudsman processed 33,167 cases last year, among complaints (22,692), ex-officio investigations (347) and requests for appeals on the grounds of unconstitutionality (10,128). A total of 711 determinations were put forth to the Administration, in comparison to the 548 put forth the year before: 236 recommendations, 302 suggestions, 170 reminders of legal duties and 3 warnings. This is the largest number in this Institution's entire history. At the closing of the report, the Administration had accepted 197 recommendations and suggestions.

This year, a total of 22,692 written complaints were lodged with the Ombudsman by citizens, in addition to the 10,128 written requests for the filing of appeals on the grounds of unconstitutionality. Part of these complaints and requests are accompanied by a major number of signatures, such that a total of 280,852 citizens have addressed this Institution in writing. In addition thereto are all those citizens dealt with in person by the Institution, totaling 19,673 in all (3,251 in person; 16,422 by telephone – 6,614 having been via the toll free 900 number).

This Institution's website had 390,622 visits and a total of 6,842,109 pages visited within the website.

The Ombudsman also opened 347 ex-officio investigations, that is to say, investigations opened on this Institution's initiative.

One significant fact regarding the Ombudsman's work is the result of its investigations. Out of all of the cases fully processed at the closing of this report.

- 1,050 cases have been settled resulting in posi-

tive outcomes, a solution having been provided to the problem put forth by the citizen in question thanks to the action taken by the Ombudsman.

- 2,363 cases were closed after having determined that the Administration had not acted incorrectly.
- On 228 occasions, the Administration considered that it could not make any change in its manner of proceeding.

As a result of these complaints and investigations, the Ombudsman has put forth to the Administrations 236 Recommendations, 302 Suggestions, 170 Reminders of legal duties and 3 Warnings. These determinations on the part of this Institution were more specifically as follows:

93 Recommendations were accepted; 32 rejected and 111 currently pending a response on the part of the Administration.

104 Suggestions were accepted, 28 rejected and 170 still pending a response.

CASES OF COMPLAINTS, EX-OFFICIO INVESTIGATIONS AND REQUESTS FOR APPEALS

In 2013 this Institution processed a total of 33,167 cases in regard to the three major classification groups in this annual report: complaints, ex-officio

investigations and requests for the filing of appeals on the grounds of unconstitutionality.

Both the complaints and the requests for the filing of appeals before the Constitutional Court are divided into those processed individually and those processed grouped together, they therefore being termed as individual or combined cases (complaints and requests).

TABLE 1			
Number of cases of complaints, ex-officio investigations and requests for appeal opened in 2013 in comparison to 2012			
		2013	2012
Complaints	Individual	18,422	19,143
	(*) Combined	4,270	14,335
	Total	22,692	33,478
Ex-officio investigations	Ex-officio	347	371
	Total	347	371
Request for appeal	Individual	99	158
	(*) Combined	10,029	(**)246,585
	Total	10,128	246,743
TOTAL		33,167	280,592

(*) Complaints and requests on same subject or for same purpose grouped together for joint processing.

(**) This large amount was for the requests for appeal on the grounds of unconstitutionality concerning the bonus pay of the civil servants having been eliminated.

TABLE 1A		
Number of citizens having addressed the Institution based on one same document. Years 2013 and 2012		
	2013	2012
Total number of citizens	280,852	291,341

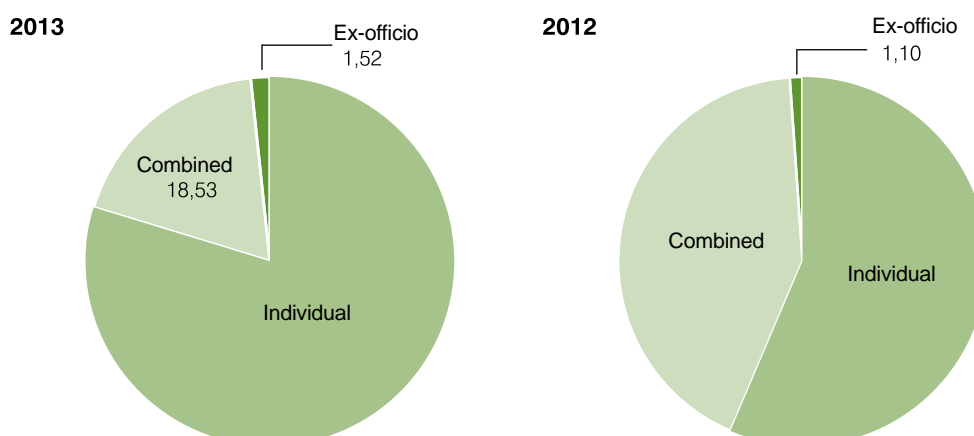
Breakdown of the complaints and requests for appeals

By way received

The citizens lodge their complaints/requests with the Ombudsman by way of the different means provided for this purpose.

FIG. 1

Percentage spread of the cases of complaints and ex-officio investigations (not including the requests for appeals) opened in 2013 and compared to 2012



In the following two tables, the details are provided as to receipt by conventional postal service, fax, e-mail, the

web platform of these documents by way of the different Ombudsman channels or in person.

TABLE 2

Number of complaints by ways in which received in 2013 and compared to 2012

WAYS COMPLAINTS RECEIVED	2013		2012	
	Number	%	Number	%
Conventional Postal Service	8,380	36.93	8,006	23.91
Fax	381	1.68	554	1.65
E-mail	2,943	12.97	2,817	8.41
In person	1,431	6.31	1,601	4.78
Web form	9,557	42.12	20,500	61.23
TOTAL	22,692	100.00	33,478	100.00

TABLE 3

Number of requests for filing appeals before the Constitutional Court by ways in which received in 2013 and compared to 2012

WAY REQUESTS RECEIVED	2013		2012	
	Number	%	Number	%
Conventional Postal Service	585	5.78	654	0.27
Fax	14	0.14	57	0.02
E-mail	192	1.90	1,474	0.60
In person	21	0.21	44	0.02
Web form	9,316	91.98	244,514	99.10
TOTAL	10,128	100.00	246,743	100.00

By channel through which sent

The vast majority of the complaints and requests are filed with the Ombudsman by private citizens. The following tables reflect this circumstance as well as

the number of cases which have been referred to this Institution by the Autonomous Community Parliament commissioners and by other entities or public agencies.

TABLE 4

Source of the complaints according to channel through which sent in 2013

COMPLAINT FILED	Number	%
Lodged directly by citizens	20,476	90.23
By Autonomous Community Parliament commissioners	2,139	9.43
By different institutions and organizations	77	0.34
TOTAL	22,692	100.00

TABLE 5

Source of the requests for filing of appeals before the Constitutional Court according to way in which filed in 2013

REQUEST FOR APPEAL FILED	Number	%
Lodged directly by citizens	10,093	99.65
By Autonomous Community Parliament commissioners	35	0.35
	10,128	100.00

The following tables detail the number of cases of complaints referred by the different Autonomous

Community ombudsmen, as well as those referred by other government institutions and agencies.

TABLE 6

Cases of complaints received from Autonomous Community Parliament commissioners in 2013 in comparison to 2012

SOURCE	Number		%	
	2013	2012	2013	2012
Ararteko (Ombudsman/Basque Country)	61	89	2.85	3.52
Síndic de Greuges de Catalunya (Ombudsman/Catalonia)	402	426	18.79	16.87
Valedor do Pobo (Ombudsman/Galicia)	48	105	2.24	4.16
Defensor del Pueblo Andaluz (Ombudsman/Andalusia)	387	468	18.09	18.53
Procuradora General del Principado de Asturias	18	23	0.84	0.91
Síndic de Greuges de la Comunitat Valenciana (Ombudsman/Valencia)	292	241	13.65	9.54
Justicia de Aragón (Ombudsman/Aragon)	271	192	12.67	7.60
Defensor del Pueblo de Castilla-La Mancha (Ombudsman/Castile-La Mancha)		389		15.41
Defensora del Pueblo Riojano (Ombudsman/La Rioja)	23	41	1.08	1.62
Diputado del Común (Ombudsman/Canary Islands)	224	171	10.47	6.77
Defensor del Pueblo de Navarra (Ombudsman/Navarre)	81	108	3.79	4.28
Defensor del Pueblo de la Región de Murcia (Ombudsman/Murcia)		100		3.96
Procurador del Común de Castilla y León (Ombudsman/Castile and Leon)	332	172	15.52	6.81
TOTAL	2,139	2,525	100.00	100.00

TABLE 7

Cases of request for filing of appeal before the Constitutional Court received from autonomous community Parliament commissioners in 2013 compared to 2012

SOURCE	Number		%	
	2013	2012	2013	2012
Ararteko (Ombudsman/Basque Country)	1	12	2,86	2,20
Síndic de Greuges de Catalunya (Ombudsman/Catalonia)	15	42	42,86	7,69
Valedor do Pobo (Ombudsman/Galicia)	1	5	2,86	0,92
Defensor del Pueblo Andaluz (Ombudsman/Andalusia)	7	62	20,00	11,36
Síndic de Greuges de la Comunitat Valenciana (Ombudsman/Valencia)		38		6,96
Justicia de Aragón (Ombudsman/Aragon)	2	4	5,71	0,73
Diputado del Común (Ombudsman/Canary Islands)	4	1	11,43	0,18
Defensor del Pueblo de Navarra (Ombudsman/Navarre)	2	380	5,71	69,60
Defensor del Pueblo de la Región de Murcia (Ombudsman/Murcia)		2		0,37
Procurador del Común de Castilla y León (Ombudsman/Castile and Leon)	3		8,57	
TOTAL	35	546	100,00	100,00

TABLE 8

Cases of complaints from different government agencies and institutions in 2013 in comparison to 2012.

SOURCE	Number		%	
	2013	2012	2013	2012
Spanish Parliament	60	45	77.92	95.74
The Judiciary	1		1.30	
Municipal ombudsmen		1		2.13
Foreign ombudsmen	16	1	20.78	2.13
TOTAL	77	47	100.00	100.00

By geographical location from where filed

The figures shown in following provide an idea as to the locations from where the complaints and requests for appeal were submitted to the Ombudsman over the course of 2013. This location-related data indicates solely the home address from which sent or stated as the address for notifications on the documents sent by the citizens, it therefore not being possible to establish any necessary link

between the matters and problems set out and the different locations and territories.

The demographic factor has a major bearing on the numerical results in this geographical breakdown of the cases, the most highly-populated Autonomous Communities being those having sent more letters to the Ombudsman.

FIG. 2

Breakdown of the locations from which complaints were filed, by Autonomous Communities, 2013.

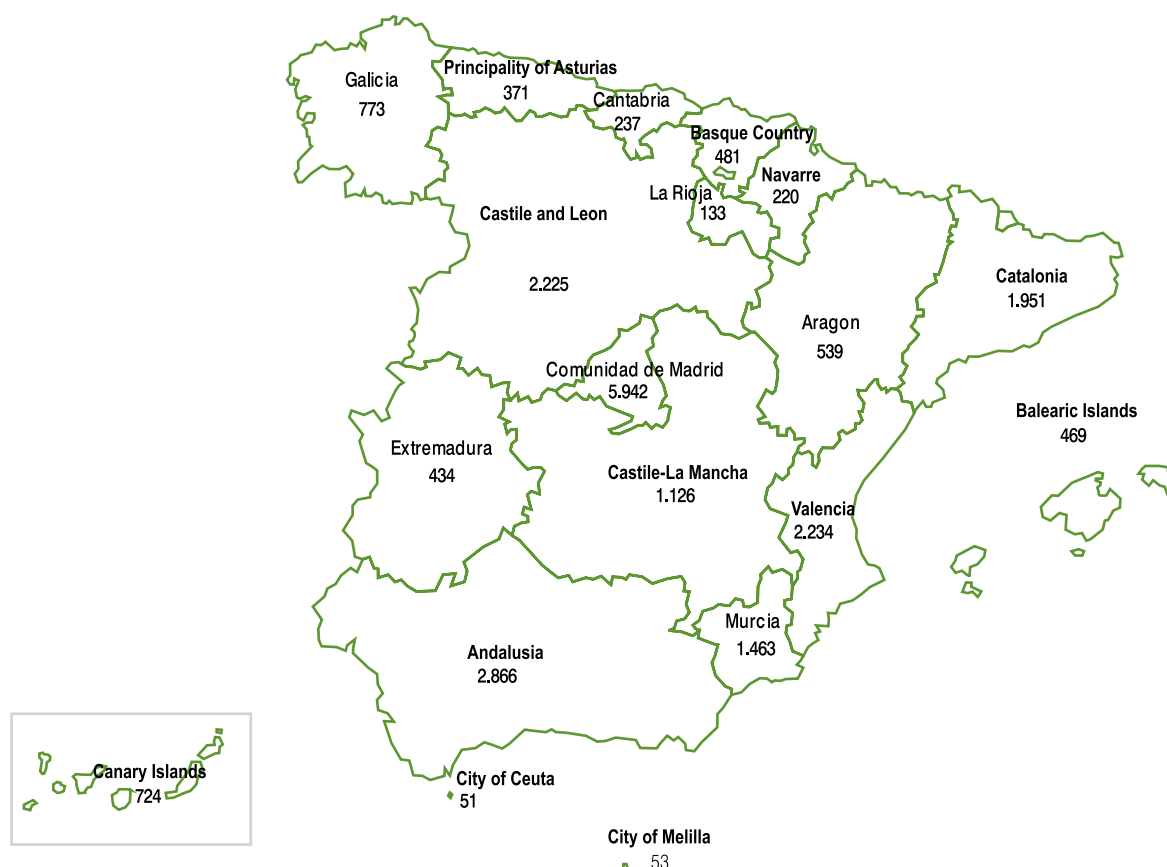


FIG. 3

Breakdown of the locations from which requests were sent for appeals before the Constitutional Court, by Autonomous Communities, 2013



Classification of cases by fields of administrative activity

The following table shows a classification of the subject matter of the cases opened in 2013. This table is provided as an orientation, given that many cases may have to do with one same subject, and many

subjects may be across the board, having a bearing on different issues (i.e.. cases concerning children may also have a bearing on a major part of those classified here as related to education).

TABLE 9

Cases. Breakdown by processing divisions and sectors. 2013

SECTORS	Complaints		Ex-officio investigations	Requests for appeal		Total
	Individual	Combined	Ex-officio	Individual	Combined	
JUSTICE ADMINISTRATION	1,434	27	36	33	674	2,204
CIVIL REGISTER	963		3			966
PENITENTIARIES	495		62			557

TABLE 9

Cases. Breakdown by processing divisions and sectors. 2013

SECTORS	Complaints		Ex-officio investigations	Requests for appeal		Total
	Individual	Combined	Ex-officio	Individual	Combined	
CITIZENSHIP & PUBLIC SAFETY	783	53	57	1		
TRAFFIC & HIGHWAY SAFETY	902		1			903
RIGHT OF ASSOCIATION, ELECTORAL REGIMEN	22					22
DATA PROTECTION & INTELLECTUAL PROPERTY	120					120
EQUAL TREATMENT	38					38
MINORS	196	70	37			303
FOREIGNERS & IMMIGRATION	806		17			823
SPANIARDS IN PRISON ABROAD	109		4			113
FOREIGN AFFAIRS	84		1			85
HEALTHCARE	785	1,053	12	4		1,854
SOCIAL POLICY	892	303	24			1,219
HOUSING	711	254	1	5	23	994
SOCIAL SECURITY	1,340		1	3	41	1,385
EMPLOYMENT	406	68	10	1		485
CIVIL SERVICE & PUBLIC EMPLOYMENT	1,195	1,078	25	22	9,209	11,529
EDUCATION	866	160	8		81	1,115
CULTURE & SPORTS	83					83
THE MEDIA	63					63
PUBLIC FINANCE	1,247		5	15		1,267
ECONOMIC ACTIVITY	2,292	1,158	13	5		3,468
COMMUNICATIONS	611		5			616
TRANSPORT	358		4			362
ENVIRONMENT	586	11	9	6		612
URBAN PLANNING	421	35	6	3		465
MUNICIPAL GOVERNMENT ORGANIZATION & LEGAL REGIME	350		6	1		357
FORECLOSURE	82					82
OTHER ISSUES	77					77

CASE PROCESSING STATUS

The table provided in this section shows the processing undergone by the cases of complaints and ex-officio investigations once received or filed by the Institution and their status at December 31, 2013.

A complaint not being accepted for processing in no way whatsoever means a lesser degree of attention

being devoted to the issues in question or to the requests put forth by the citizens having lodged the same. All complaints are given the same degree of dedication and are answered in a timely fashion, providing the person in question with the most suitable response to the question raised, as well as guidance as to the alternatives open to them for seeking a solution to their problem.

TABLE 10

Status of the complaints and ex-officio investigations in 2013, not counting the requests for appeals to be filed on the grounds of unconstitutionality

STATUS		Individual		Combined		Ex-officio		Total	
		No.	%	No.	%	No.	%	No.	%
Accepted	In processing	4,035	21.90	1,982	46.42	254	73.20	6,271	27.22
	Concluded	2,925	15.88	1,397	32.72	79	22.77	4,401	19.10
	Suspended	10	0.05					10	0.04
	Total	6,970	37.84	3,379	79.13	333	95.97	10,682	46.36
Not accepted	Not accepted	9,406	51.06	891	20.87			10,297	44.69
	Total	9,406	51.06	891	20.87			10,297	44.69
"Under study (at Dec. 31 st)"	Started	1,318	7.15			14	4.03	1,332	5.78
	Pending reply from the interested party	728	3.95					728	3.16
	Total	2,046	11.11			14	4.03	2,060	8.94
OVERALL TOTAL		18,422	100.00	4,270	100.00	347	100.00	23,039	100.00

In 2013, the Ombudsman did not file any appeal before the Constitutional Court, although the Ombudsman has put forth different recommendations to the administrations involved in several of these cases.

The following table details the figures for the cases of request for appeal before the Constitutional Court

in 2012. Four of the requests for appeals for the protection of constitutional rights filed at the very last of the year have been left pending study, given that the three-month period for which provision is made for this type of appeals before the Constitutional Court had not lapsed. An account will be provided of the outcomes thereof in the next report.

TABLE 11

Status of the cases of requests for appeal before the Constitutional Court in 2013

STATUS	Individual		Combined		Total	
	No.	%	No.	%	No.	%
Not filed	95	95.96	10,029	100.00	10,124	99.96
Under study (at Dec. 31st.)	4	4.04			4	0.04
TOTAL	99	100.00	10,029	100.00	10,128	100.00

The following table specifies those requests for appeals not filed regarding which recommendations have nevertheless been put forth. The law or decree under which

the filing of an appeal was requested, the number of requests and the number of recommendations and to which Administration they were put forth are stated.

TABLE 12

Details of the cases requesting appeals to be filed before the Constitutional Court which have given rise to recommendations having been put forth by the Ombudsman

CASES Legal standard involved	No. recommendations	Administration to which recommendations were put forth
Law 10/2012 of November 20 th governing certain fees within the scope of the Administration of Justice and the National Toxicology and Forensic Science Institute (legal fees).	8	Ministry of Justice
Law 10/2012 of November 20 th governing certain fees within the scope of the Administration of Justice and the National Toxicology and Forensic Science Institute (amendment RDL 20/2012 on elimination of bonus pay and wage supplements)	2	Secretary of State for Public Administrations
Law 1/2013 of May 14 th on measures for reinforcing the protection of mortgage debtors, debt restructuring and social rental. Study on Economic Crisis and Personal Insolvency: Measures and Suggestions from the Ombudsman.	8	Vice-President of the Government Ministry of the Presidency and Government Spokesperson; Ministry of Economy & Competitiveness, Ministry of Justice
Law 2/2013 of May 29 th on the Protection and Sustainable Use of the Coast and amendment of Coastal Law 22/1988 of July 28 th	4	Ministry of Agriculture, Food and Environment
Law 4/2013 of June 4 th on measures for the flexibilization and development of the housing rental market	1	Ministry of Public Works Directorate General of Architecture, Housing and Land
Royal Decree Law 20/2012 of June 13 th on measures for guaranteeing budget stability and promoting competitiveness	2	Secretary of State for Public Administrations
Royal Decree Law 28/2012, of November 30 th on measures for Consolidating and guaranteeing the Social Security System	1	Ministry of Employment and Social Security
Autonomous Community of Madrid Law 5/2012 of December 20 th on Sustainable Rural Housing	8 ⁽¹⁾	Autonomous Community of Madrid Department of Environment and Regional Planning
Decree Law 5/2013 of April 2 nd adopting certain measures on the employment of temporary civil service personnel in the General Administration of the Autonomous Government of Andalusia	2 ⁽²⁾	Autonomous Government of Andalusia Department of Finance and Public Administration
Autonomous Community of Madrid Law 8/2012 of December 28 th on Tax-Related, Administrative Measures	1	Autonomous Community of Madrid Dept. of Education, Youth and Sport

⁽¹⁾ Three of the eight determinations are Warnings

⁽²⁾ One of the two determinations is a Reminder of legal duties.

Cases of individual complaints

The following table provides an account of the reasons for complaints not having been accepted, all of which have to do with substantive aspects due to which it is neither possible to further pursue what the interested parties are requesting nor to open an investigation with

the government agencies. As shown in the table, the main reason for non-acceptance is related to the lack of sufficient evidence indicative of an irregular action on the part of the Administration. Other common reasons have to do with the complete absence of prior administrative action, conflicts among private citizens or the cases in which a judicial authority has already intervened.

TABLE 13

Individual complaint cases. Reasons for non-acceptance in 2013

REASONS FOR NON-ACCEPTANCE	Number
No evidence of administrative irregularity	3,140
Lack of prior administrative action	1,312
Several concurring reasons for non-acceptance	1,045
Court intervention	885
Other reasons due to which the issue does not fall within the province of the Ombudsman	834
No reply to request for further details	674
Private conflict having nothing to do with the Administration	314
Final court decision not subject to appeal	221
Information only being sent	150
Remedied without Ombudsman's involvement	144
Information only being requested	138
Intervention of the autonomous community parliament Commissioner	119
No action on the part of the public powers	80
No grounds	79
Against the legislation in force	62
Longer than a one-year period	51
Abandonment	43
No claim	30
No legitimate interest	28
Administrative authority in matters within the province thereof	18
Requirement for acceptance of appeal not met	13
Incorrect action acknowledged in process of being remedied by other cases	12
Damaging to third parties	6
No reply to defect possible to correct	6
Anonymous claim	1
Impossible to contact interested party	1
TOTAL	9,406

The following two tables show the processing of the individual complaint cases which were indeed possible to accept, the Administrations involved in the

different investigations and the types of conclusions of those cases which it has been possible to conclude in 2013.

TABLE 14

Individual complaint cases accepted. Number of those processed with the Administration in 2013

ADMINISTRATIONS	In Processing	Concluded	Suspended	Total
Central Government	1,698	1,416	3	3,117
Autonomous Community Government	790	681	5	1,476
Municipal Government	576	452		1,028
Attorney General	166	50		216
Other public entities	84	100		184
More than one administration	352	108	1	461
Investigations connected to other investigations	369	118	1	488
TOTAL	4,035	2,925	10	6,970

Combined complaint cases

The two tables in following detail the reasons for non-acceptance of the combined complaint cases

TABLE 15

Combined complaint cases. Reasons for non-acceptance in 2013

REASONS FOR NON-ACCEPTANCE	Number
Several concurring reasons for non-acceptance	561
No evidence of administrative irregularity	171
Judicial intervention	94
Autonomous Parliament commissioner intervention	35
Other reasons for which not within the province of the Ombudsman	30
TOTAL	891

TABLE 16

Combined complaint cases accepted. Number of cases processed with the Administrations in 2013.

ADMINISTRATIONS	In processing	Concluded	Total
Central Government	1,303	261	1,564
Autonomous Community Government	517	1,096	1,613
Municipal Government	87	1	88
Other public entities		2	2
More than one administration	75	37	112
TOTAL	1,982	1,397	3,379

Ex-officio investigation cases

Most of the ex-officio investigation cases opened over the course of 2013 were still in processing at year end. It must be remembered that a major number of these investigations are for the purpose of gathering information for preparing monographic studies, which usually requires successive requests for documentation, giving rise, in many

cases, to recommendations and suggestions being put forth.

In other cases, the ex-officio investigations are the result of learning of situations requiring urgent attention and thus requiring an equally fast response on the part of the Administration concerned.

TABLE 17

Ex-officio investigation cases opened and processed with the Administration in 2013

ADMINISTRATIONS	In processing	Concluded	Total
Central Government	105	33	138
Autonomous Community Government	85	27	112
Municipal Government	5	5	10
Other public entities	3	3	6
More than one administration	34	8	42
Investigations connected to other investigations	22	3	25
TOTAL	254	79	333

In addition to the total number of investigations shown in this TABLE 17, there were also 14 cases opened this year which are still under study.

RECOMMENDATIONS, SUGGESTIONS, REMINDERS OF LEGAL DUTIES AND WARNINGS

Recommendations and suggestions comprise one of the main tools in the work done by the Ombudsman. A major part of the Ombudsman's investigations give rise to recommendations or suggestions being put forth as a result either of the complaints lodged by citizens or the investigations opened by the Institution proper, including the monographic studies.

In any of these cases, once a certain problem has been diagnosed, after gathering information from the Administration involved, the Ombudsman then

proceeds to putting forth a recommendation or suggestion to the Administration in question for the purpose of promoting a change actually being made in a certain administrative practice or in a legal standard. The Administration may not accept the suggestion or recommendation, but the law places it under the obligation of setting out the reasons for its decision with regard thereto.

As a result of the processing of the cases of individual complaints, combined complaints and ex-officio investigations, as well as the determinations of requests for appeals to be filed on the grounds of unconstitutionality and the monographic studies, a total of **711 determinations** (recommendations, suggestions, reminders of legal duties and warnings) **were put forth** to the different public administrations.

TABLE 18

Determinations put forth in 2013

DETERMINATIONS	Accepted	Rejected	Pending	Total
Recommendations	93	32	111	236
Suggestions	104	28	170	302
Reminders of legal duties				170
Warnings				3
TOTAL	197	60	281	711

TABLE 19

Recommendations, by administrations to which made, at December 31, 2013

ADMINISTRATIONS	Accepted	Rejected	Pending	Total
Administración Gral. del Estado	35	23	53	111
Administración autonómica	30	7	44	81
Administración local	22	1	12	35
Otras entidades públicas	6	1	2	9
TOTAL	93	32	111	236

TABLE 20

Suggestions, by administration to which made, at December 31, 2013

ADMINISTRATIONS	Accepted	Rejected	Pending	Total
Central Government	40	17	69	126
Autonomous Community Government	16	4	28	48
Municipal Government	48	7	71	126
Other public institutions			2	2
TOTAL	104	28	170	302

REQUESTS FOR APPEALS BEFORE THE CONSTITUTIONAL COURT

The large majority of the legal standards regarding which requests were made for appeals to be filed on the grounds of unconstitutionality have been laws passed by Parliament and Royal Decree-Laws approved by the Government; there also having been several requests regarding laws and decree-laws passed by the Autonomous Communities.

This Institution has as a criterion well-established over the course of the years of not filing appeals before the Constitutional Court in those cases in which another legally-authorized instance has proceeded to filing the same. This criterion has been followed in several of the decisions adopted in 2013, as is indicated in the description of grounds.

When making a decision as to filing an appeal on the grounds of unconstitutionality, this Institution has the priority of maintaining, insofar as possible, a position of utmost neutrality as far as the political and legislative debate is concerned. The decision as to the aspects related to the constitutionality of a law undoubtedly involves an assessment of the rule of law, which is heedfully dealt with within the realm of considerations inherent to the legislative branch and its decision-making

boundaries within the not always clear-cut theoretical framework set out in the text of the Constitution.

One of the most outstanding of the Ombudsman's attributions is the power to put forth proposals and suggestions for amending legal standards, even to Parliament, whenever this Institution considers it possible to adapt a law so as to make it more closely in accordance with the constitutional principles and, quite especially, with the catalogue of fundamental rights and liberties serving as the framework of the democratic system.

UNCOOPERATIVE OR OBSTRUCTIVE ADMINISTRATIONS

The administrations are placed under the obligation, by Article 19 of Organic Law 3/1981 of April 6th, of **providing the Ombudsman with a response** concerning the information re-requested thereby for its investigations. But **this response is not always prompt and, in some cases, may not ever be provided at all** after having been requested to do so several times.

In these cases, Article 18.2 of Organic Law 3/1982 of April 6th vests the Ombudsman with the authority to

declare the administrative division or body in question as being “**hostile or obstructive**” to its functions and to additionally inform Parliament thereof by means of listing them by name in the annual report or, wherever applicable, in a special report.

These administrations have been classified into three groups:

- Administrations considered **obstructive** as a result of having systematically or notably hindered or obstructed the Ombudsman’s work in an investigation.
- Administrations which have **failed to provide a response** to a request for information in one or more cases after having been requested up to three times to do so.
- Administrations providing a response to the Ombudsman only after **their collaboration had been requested three times**.

The characteristics of each one of the cases listed differ due either to the repercussion of the failure to meet their obligation, repeated failure to do so, or the options available in the administrations proper.

For the purpose of the administrations providing responses to the requests of this Institution, **several steps have been taken in order for responses to be provided to the requests for information which have been pending the longest**.

As the Ombudsman announced in her appearance before the Joint Commission for Relations with the Ombudsman Institution on November 6th, 2012, **the Attorney General has been informed as to those administrations which, despite the steps taken, had still as yet failed to provide a response**, so that the Attorney General can look into whether this attitude falls within the framework of the factual circumstances of Article 502.2 of the Penal Code.

These are the institutions in question:

- Autonomous Community of the Canary Islands Department of Culture, Sports, Social Policy and Housing Policy.
- Municipal Government of Coslada (Madrid)
- Municipal Government of Tegui (Las Palmas)

The smaller-sized municipal governments have been excluded, generally speaking, from these

lists of administrations reluctant to provide the Ombudsman with a response, this Institution being well aware of the difficulties some local governments are experiencing with regard to managing their own affairs, especially in the current crisis situation. This does not however mean that the local institutions are exempted from the duty of providing the Ombudsman Institution with help in the course of its investigations.

The following administrations have failed to fulfil their duty of collaborating with this Institution as a result of their failure to provide a response in one or more cases:

Municipal Government of Alcalá de Xivert (Castellón).
 Municipal Government of Alfaro (La Rioja).
 Municipal Government of Espejo (Córdoba). Municipal Government of Lalín (Pontevedra). Municipal Government of Quintanilla del Coco (Burgos).
 Municipal Government of Tartanedo (Guadalajara).
 Lesser Local Entity de Áyega. Valle de Mena (Burgos).

There are **other government administrations** whose actions are worthy of mention in this section of the 2013 Annual Report in addition to being included in the lists provided in the respective section of the annex to this report:

- **The Office of the Secretary of State for Infrastructures of the Ministry of Public Works** and various bodies operating under the same usually provide delayed replies, following several requests, although it is true that there is a **very large volume of investigations** and thus a large number of requests for information through this government agency.
- **The Autonomous Community of the Canary Islands Department of Culture, Sports, Social Policies and Housing**. A major number of investigations are processed with this Department, related mainly to the recognition of the situation of dependence. Successive requests have systematically been issued in view of the failure to provide a response within the appointed time frames. Some results have been achieved following the steps taken by telephone deployed in addition to the written requests, however no responses have been provided in two cases following a third request, despite the fact of some of these requests having been made by way of 6 procedures through different channels.

Management Report

The Spanish Ombudsman Institution lowered its budget by 3.2% in 2013

With this reduction, there has been a cumulative 12.19% budget reduction for the 2009-2013 period, making this Institution's budget one of the lowest of all the central government institutions.

2013 BUDGET

2013 Spanish Ombudsman Institution Budget

Spain's Official State Gazette (BOE) No. 312 of December 28, 2012 published General State Budget Law 17/2012 of December 27th, in which the budgeting allocated to the Ombudsman Institution for the 2013 year totaled 14,021,300.00 €

TABLE I	
2013 Ombudsman Institution budget itemized by chapters	
2013 EXPENSE BUDGET	AMOUNT
Chapter I: Personnel expenses	11,593,400.00€
Chapter II: Current expenses on goods and services	2,427,900.00€
TOTAL CHAPTERS I + II	14,021,300.00€

The following table provides a breakdown of the budget by budget items.

TABLE II		
2013 Ombudsman Institution budget breakdown by items		
CHAPTER I. PERSONNEL EXPENSES		
ITEM	DESCRIPTION	TOTAL
10	SENIOR OFFICIALS	449,000.00
12	CIVIL SERVANTS	8,479,300.00
13	CONTRACT EMPLOYEES	7,300.00
14	OTHER PERSONNEL	370,000.00
15	PERFORMANCE INCENTIVES	5,000.00
16	EMPLOYER SOCIAL SECURITY CONTRIBUTIONS. BENEFITS AND SOCIAL EXPENSES	2,282,800.00
TOTAL CHAPTER I		11,593,400.00
CHAPTER II, CURRENT EXPENSES IN GOODS AND SERVICES		
20	RENTAL/LEASING AND FEES	36,200.00
21	REPAIRS, MAINTENANCE AND UPKEEP	405,500.00
22	MATERIALS, SUPPLIES AND OTHERS	1,665,200.00
23	SERVICE-RELATED INDEMNIFICATIONS	207,000.00
24	PUBLICATIONS EXPENSES	65,000.00
27	PURCHASING, SUPPLIES AND MISCELLANEOUS EXPENSES	49,000.00
TOTAL CHAPTER II		2,427,900.00
TOTAL CHAPTERS I + II		14,021,300.00

Inter-annual Evolution 2009-2013

The inter-annual evolution of the budget over the course of the last four years (2009-2013) has been as shown in following:

TABLE III									
Inter-annual evolution of the budget. 2009-2013 period									
2009	%	2010	%	2011	%	2012	%	2013	
15,968,400	-0.51	15,886,500	-4.47	15,175,800	-4.5	14,492,900	-3.25	14,021,300	

FIG. I

Inter-annual evolution of the budget.
2009-2013 period



TABLE IV

Overall evolution of the budget. 2009-2013 period

2009	2013	% decremento
15,968,400 €	14,021,300 €	-12.19

FIG. II

Overall evolution of the budget. 2009-2013 period



INFORMATION FOR CITIZENS

A number of items of data are provided in following concerning the assistance provided for citizens

throughout 2013, either directly in person or via different electronic media.

TABLE V

Number of calls answered and visits received for the purpose of providing citizens with services in 2013 compared to 2012

CITIZEN INFORMATION	2013	2012
Assistance in person	3,251	3,375
Telephone	9,808	9,161
Toll-free 900 number	6,614	5,435
TOTAL	19,673	17,971

TABLE VI

Ombudsman Institution website visits
(www.defensordelpueblo.es)

	2013	2012
Visits	390,622	531,406
Pages visited	6,842,109	8,758,409

In TABLE VI, a distinction is made between the visits made to the website (visits) and the visits to the different webpages (pages visited within the website).

TABLE VII

Breakdown of visits to the Ombudsman Institution website. 2013

WEBSITE ADDRESSES	Visits	Pages visited
defensordelpueblo.es	313,418	6,087,819
enclase.defensordelpueblo.es	30,451	50,123
concursodibujos.defensordelpueblo.es	25,463	40,006
NPM	14,666	633,252
premioddhh.defensordelpueblo.es	2,286	9,284
biblioteca.defensordelpueblo.es	1,942	15,126
estadisticas.defensordelpueblo.es	1,626	4,227
newsletter.defensordelpueblo.es	770	2,272
TOTAL	390,622	6,842,109

COMMUNICATIONS

The main objective of the Ombudsman Institution Communications Department is to make the concept as to what the Ombudsman Institution actually is and what it does better known to the citizenry. This Department's work is aimed at showcasing the usefulness of this Institution by way of practical examples. To accomplish this objective, it is fundamental to maintain constant, fluid relations with the media.

The "El Defensor al Día" ("Ombudsman Update") newsletter prepared by the Communications Department includes the Institution's main investigations and actions. More than 3,000 individuals and groups are currently receiving this newsletter (Autonomous Community Commissioners, Central Government and Administration, State Institutions, Autonomous

Community Parliaments, Government delegates and sub-delegates, Joint Commission for Relations with the Ombudsman Institution, Ibero-American Federation of Ombudsmen, non-governmental organizations and associations, the media and private citizens interested in receiving this publication).

The Communications Department also manages the website, www.defensordelpueblo.es, providing an overview of the work done by this Institution and serving as a way for citizens to submit their letters to the Institution.

The social networks comprise part of this Institution's communications strategy. The Twitter profile closed out the year with more than 7,500 followers. This profile makes yet another communications channel available to citizens for keeping abreast of the activities of the Ombudsman Institution. Complaints cannot be lodged through this channel, given that the restricted length of Twitter messages makes it impossible to use this medium for submitting the additional information which citizens in many cases need to add to their letters of complaint.

Media impacts

By way of the press releases, press meetings and conferences, the Ombudsman's Communications Department has continued its efforts aimed at making the work done by this Institution more widely known. The relations with the media are an outstanding part of the everyday endeavors carried out by this department of the Ombudsman Institution, this Institution having achieved a strong presence regularly in newspapers, radio and television broadcasts and in the digital media as a result of these relations.

In 2013, more than 12,000 impacts have been tallied on the internet, in newspapers and magazines and on radio and television. This Institution has been in the news as a result of the publication of its annual report and the presentation of the monographic studies "Economic Crisis and Personal Insolvency: Measures and Suggestions", "Making Textbooks Free: Programs, Aid, Loans and Reuse", "Vacant Government-Subsidized Housing" and "Preferred Shares". The Communications Department also contributed to disseminating the updates of the reports "Human Trafficking in Spain" and "Economic Crisis and Mortgage Debtors".

Supervision of Public Administrations

Security and Justice

The mediation of the Spanish Ombudsman Institution meant a reduction in the judicial fees for citizens

Following the Ombudsman's mediation, the Ministry of Justice amended the Judicial Fees Law. The variable fees were lowered by 80%, the number of those entitled to benefit from free legal aid was increased, and the fees were eliminated for some groups. On the other hand, the ruling of the European Court of Human Rights concerning the "Parot Doctrine" was issued, having come as a tremendous blow to the victims of terrorism. The Ombudsman expressed her solidarity and support to the victims.

ADMINISTRATION OF JUSTICE

Undue delays

The delays continue to exist in the Administration of Justice, although fewer complaints have been lodged with the Ombudsman concerning this issue. For providing a solution to these complaints, the coordination continues with the Attorney General's Office (in those processes to which the Attorney General's Office is party) and the General Council of the Judiciary. Thus, the requests for information on judicial proceedings to which the Attorney General was party were sent to the Attorney General and all of the other cases to the General Council of the Judiciary. Employing this new criterion has made it possible to significantly expedite the processing of the cases.

In 2013, a total of 71 complaints were lodged concerning judicial delays in the civil jurisdiction (34 fewer than in 2012), 47 in the criminal jurisdiction (13 fewer than in 2012), 18 in the contentious-administrative jurisdiction (the same number as in 2012), 23 in the social jurisdiction (10 more than

in 2012) and 7 in the commercial jurisdiction (one more than in 2012).

Within the scope of the civil jurisdiction, most of the complaints lodged had to do with family-related proceedings. Unlike the proceedings by mutual agreement, the contentious marital processes are usually lengthy procedures. The issues regarding the custody of the children, the visitation rights of the parent who does not have custody and the amount of the alimony are usually the most common points of controversy.

Once again this year, the Ombudsman believes it advisable to put forth a reminder as to the importance of family mediation as the most suitable way of settling family disputes out of court.

In the labor jurisdiction, the 2013 statistics published quarterly by the General Council of the Judiciary substantiate the rise in the rate of litigations in the labor courts in comparison to the same periods in 2012. The consequences of the economic crisis have a direct impact on the high percentages of disputes in the labor courts.

According to the General Council of the Judiciary statistics for 2013, the litigation rate in the criminal jurisdictions is not showing any particularly major fluctuations, even having undergone a slight decrease in some quarter as compared to 2012. This fact might however be misleading if one does not take into account the incidence of the complexity of the cases of political and economic corruption when assessing the situation. The Ombudsman has received numerous complaints having to do with citizen discontent regarding the proliferation of the cases of political and economic corruption.

On the other hand, the General Council of the Judiciary statistics related to the contentious-administrative jurisdiction reveal a major drop in the litigation rate. Despite these facts, the backlog of disputes from previous years is so great that the situation of the contentious-administrative courts continues to be cause for concern. The delay in setting the dates of the hearings is still causing obvious discontent among the citizenry.

Judicial fees

Following the publication of Law 10/2012 of November 20th, known as the Judicial Fees Law, the Ombudsman put forth recommendations to the Ministry of Justice for amending substantial aspects of this legal standard. Only twelve days following the recommendations having been made, most were accepted, and the legislative change was made. The variable fees were thus lowered by 80%, the number of people entitled to free legal aid and therefore exempted from judicial fees was increased, and both the fixed and variable fees were done away with for some groups.

Gender violence

Combatting gender violence requires continuing and increasing the efforts which have been being made over the past few years. To this end, investigations have been set into motion concerning the current situation in this field, a reminder of legal duty having been put forth regarding the proper functioning of the Telephone Assistance and Protection Service for Victims of Gender Violence, the concern for the children who are victims of either family violence or gender violence having been conveyed, investigations have been gotten under way in cases in which the protection system has not functioned, resulting in death.

For the purpose of keeping the information of which this Institution avails in the fight against

gender violence updated and promoting whatever suggestions or recommendations might be fitting, parallel investigations have been opened with different agencies involved in this issue. Overall information has been requested from the Attorney General on the situation in Spain which was to include a comparison between the protection orders requested by the victims and those finally granted by the courts in the end, and the number of deaths and attacks which had required hospital care.

In similar terms, investigations have been gotten under way with the Gender Violence Monitoring System of the General Council of the Judiciary, the Government Delegation for Gender Violence of the Ministry of Health, Social Services and Equality and the Directorate General of the Police, with whom requests have also been placed for information on protocols and measures they have planned to set into motion in 2014.

The Health System Interterritorial Gender Violence Commission has been requested to provide information on the measures it has in force for guiding the actions of physicians and nurses as well as the protocols it has planned to start up in 2014.

The last Administration consulted was the Ministry of Justice, from whom information was requested on the current status of the processing of the Victim's Statute, as well as of any other legislative initiative concerning the subject of gender violence.

The most recent acts of family and gender violence have revealed a situation which had not been dealt with as deserved until now, which are the collateral damages the children suffer when their father exerts gender violence on the mother, as well as the use made of the children on the part of the parents involved in a separation or divorce process.

In view of the magnitude of the problem which is now beginning to come to light, ex-officio investigations have begun with the Secretary of State for Justice, to whom issues have been set out such as the need for all of the local court districts to have Courts for Violence Against Women and the indispensable implementation of divisions for the integral assessment of gender violence in the courts.

In response to the request for information, the Ministry reported that, as a result of a resolution passed by the plenary session of the General Council of the Judiciary, it was determined that in those local court districts in which courts exclusively for violence

against women were not to be created, the process of taking cognizance of these matters would fall to one of the examining magistrate's courts or courts of first instance and investigation, these functions being made compatible with those of the rest of the jurisdictional order of the local court district thereof.

In all those Autonomous Communities to which the authority has not been transferred (Castile and Leon, Castile-La Mancha, Murcia, Balearic Islands and Extremadura), divisions for the integral assessment of gender violence have been implemented at all of the institutes of legal medicine. The implementation of the institutes is currently pending in Ceuta and Melilla, where this function has been being carried out to date by the psychosocial teams of the courts.

Juvenile offenders

In September 2013, a minor 15 years of age died in his room at the Albaidel Center for Juvenile Offenders. Two technical team members from the Ombudsman Institution went to the center to speak with the personnel and the juvenile inmates and to review the record of the minor in question.

After detecting several problems, a request has been made, by way of the Department of Health and Social Affairs of the Autonomous Community Government of Castile-La Mancha, asking that an explanation be provided as to the protocol for the prevention of suicide not having been set into motion and, were the case to be, the reasons why it was considered fitting to deactivate said protocol.

The Ombudsman has also urged the center to replace all of the metal bars on the rooms of the juveniles with masonry shelving as soon as possible, which were still installed two months after the fact, despite this having been a fundamental element involved in this tragic ending.

A request has been made for the internal protocol for the functioning of the center to be revised, proposing that the staff be increased so that each professional, both those working as guards and the professionally-qualified juvenile care personnel can effectively perform the tasks assigned to them. The Ombudsman has additionally requested to be informed as to the measures they plan to adopt concerning both the personnel as well as the material means in order to prevent the reoccurrence events such as the one having occurred.

Civil Registry

The holdup in a good number of civil registries still continues to exist, having a bearing, above all, on marriage and citizenship records. The Ministry has accepted several suggestions and recommendations for increasing the staffing assigned and the material means allocated to several registries.

In the Autonomous Communities of Madrid and Valencia, certain registries have been bolstered with more permanent staff and temporary personnel without having managed to get this service into normal working order. Despite acknowledging the shortcomings and having one of the registries with the longest delays, the Autonomous Community of Catalonia has rejected the recommendations made, alleging that reinforcing personnel for citizenship-related matters would affect birth, death, marriage or other registries.

There has also been a rise in the number of complaints concerning civil registries in Andalusia, in which a restriction has been found to exist on the staffing and material resources allocated, in addition to the afternoon hours for dealing with the public having been eliminated in some cases,. Complaints have been lodged from the Autonomous Community of Aragon concerning the functioning of the civil registry in Zaragoza. The recommendation put forth having been accepted has made it possible to double the number of citizens being assisted, the deficiencies and lacks detected however still as yet not having been fully corrected.

Central Civil Register

A substantial reduction has been noted in 2012 in the number of complaints received concerning the central civil registry thanks to the changes made in the organization and implementation of the online appointment-scheduling system, which has been discussed in earlier reports. Complaints continue to be lodged, albeit to a lesser degree than in previous years, regarding the delay in the registration of marriages and in the processing of citizenship papers. In December 2013, this Registry was processing the marriage records which had been submitted in March 2012, meaning having shortened the average delay from more than two years to fifteen months. The Registry has reported that it will be adopting new measures in short so that the delay will be shortened to one month in the summer of 2014.

To expedite a solution being provided regarding the more than 400,000 citizenship case files from the years 2010, 2011 and 2012 currently pending processing, the Secretary of State for Justice signed an agreement on June 25, 2012 arranging the Official Association of Property, Mercantile and Real-Estate Registrars being placed in charge of the management thereof, in which more than one thousand registrars have taken part. Not encompassed within the case files placed under their management were those which were already in processing, for the years 2007, 2008 and 2009, which has given rise to the complaints lodged by these applicants.

As a first step, all of the citizenship case files placed under the management of these registrars were digitized so as to prevent hardcopy documents from having to be sent back and forth among the different registries, the Official Association of Registrars, the Consulates and the Ministry of Justice. Additionally, it was also proceeded to digitally notify the decision granting citizenship to the respective Civil Registry concerned, which would have to take oath within the time frame of 180 days, this being a time frame with which a good part of the aforesaid registry offices failed to comply for the same reasons already explained, entailing delays of longer than a year.

Afterward, the registry then proceeded to digitize the rest of the case files which had not been encompassed within those initially placed under the management of the registrars.

By December 31, 2012, a total of 601,412 case files had been digitized since the start of the Intensive Citizenship Plan. A total of 448,557 case files had been processed by the Registry Offices. In 57,759 case files, additional documentation was requested; 419,834 had already been investigated and decisions had already been issued regarding 395,880 thereof by the Ministry of Justice. A total of 36,800,803 pages had been digitized.

To expedite the processing even more, yet further management was commissioned in April 2013, in this case to the notaries public, so that the oath or pledge of allegiance to the King, to the Constitution and to the laws could be made in their presence, thus avoiding the delays of longer than a year in many cases, which in the processes of notifying the decision granting citizenship and the setting of the date for proceeding to taking the oath in which the registry offices were incurring.

All of these measures have been effective to differing degrees depending on the registry office having

authority over proceeding to the registrations of births and issuing the certificate enabling those persons whose citizenship has been granted or recognized to obtain the Spanish National Identification Card (DNI). Where the Registry Office was not backlogged to a standstill, there have been cases of the Spanish National Identification Card (DNI) having been obtained 20 months after having filed application for citizenship, within the month following the decision having been issued granting the citizenship. In other cases, it can take longer than 7 years from the point in time at which application is filed and then a year and a half after the final decision is issued. At first, many registry offices were reticent to complete the registrations of births for those who had taken oath in the presence of a notary public, alleging lack of authority and casting doubts upon the Instruction of July 5, 2013 regarding the procedure to be followed for taking oath in the presence of a notary public. Some of the most outstanding of the registrars who were reticent were those of Barcelona, Getxo (Bizkaia), Palma de Mallorca and Puerto del Rosario (Las Palmas), which gave rise to a large number of complaints on the part of the citizens affected by this differing criterion for the application of the instruction between one registry office and another.

Worthy of special mention is the work done by the Ministry of Justice for effectively dealing, by means of commissioning these processes, with the huge volume of applications for citizenship filed within the 2010-2013 period, during which time a total of 600,732 applications for citizenship due to residence were filed. Citizenship was granted in the case of a total of 85% of the applications regarding which decisions were issued in 2010, 2011 and 2012 and denied in 15% of the cases. A decision is still as yet pending in a total of 77,000 of the 460,000 cases of applications for citizenship filed over the course of these years.

This promptness contrasts with the delays affecting several thousands of cases from the years 2007, 2008 and 2009 regarding which decisions are as yet to be issued.

Specific civil registers

Complaints are still being lodged due to there being no appointment-scheduling system or the malfunctioning thereof in the event that such a system is indeed in place, or the exceedingly long delay in appointments being made for specific civil registries. The Ombudsman has recommended the

implementation of an online appointment-scheduling system similar to that which is already in place at the Central Civil Register and others nationwide under the authority of the Ministry for the purpose of preventing long waiting lines from forming, even in the early morning hours without any assurance of being assisted, at the registry offices most in need thereof, such as in the Autonomous Communities of Madrid, Valencia, Catalonia and the Canary Islands.

Consular Registries

In 2013, the greatest number of complaints regarding consular civil registries had to do with the functioning of the Spanish Consulate in Havana (Cuba) due to the delay in processing the applications for citizenship in accordance with Supplementary Provision Seven of Law 52/2007 of December 26th. It was recommended that consideration be given to the advisability of staffing said office with reinforcements, at least temporarily, in order to guarantee the effective documentation of the Spanish population registered and expedite the processing of the citizenship applications still pending, which totaled 25,000 in number in December 2013. At that point in time, the documents filed in November 2011 were being analyzed and classified. At the point in time of the writing of this report, a response has been received stating that this is pending assessment, as a result of which the final outcome will be reported in the upcoming annual report.

In February 2012, the Secretary of State for Justice accepted the recommendation as to the decisions issued denying the registration of marriages between Spanish citizens and citizens of the country where the Consulate is located being individualized and sufficiently setting out the reasons for the responses.

Attorneys and Procurators

Throughout 2013, the Ombudsman has continued supervising the actions of the professional associations and their relations with their registered members. Similarly, the respect for the right to defense has been ensured, having instituted all those proceedings deemed fitting for the purpose of guaranteeing the actual exercise, in fact, thereof.

The President of the Bar Association of Madrid lodged a complaint regarding the actions taken by the investigator and secretary of an official report from the Provincial Information Division of Madrid, on

having incorporated statements in the proceedings which violated the right to defense and impinged upon due respect for the profession of an attorney and the freedom and independence thereof, given that the professional in question was identified and described ideologically with regard to the cases defended thereby and actions of his clients.

The police procedure in this case violated the presumption of innocence of the detainee due to the sole fact of having appointed a specific attorney in particular to defend him, undermining the true exercise of the right which detainees have to legal aid provided by attorneys of their free choice, who must also act with the necessary freedom and independence guaranteed under the legal standards in force.

The Ombudsman put forth a recommendation to the Directorate General of the Police for the purpose of the fitting instructions being given in order to prevent any reference to or description of the attorneys from being made in the police reports in relation to their clients, their ideology or involvement in certain cases over the course of their professional career.

The Ombudsman put forth a recommendation to the Ministry of Finance and Competitiveness as to the Spanish model of the “procurador de los tribunales” (court lawyer) being maintained in the new Professional Services and Associations Law, thus preventing a rise in costs for the citizens. This Institution is of the opinion that the new law could have effects on the day-to-day functioning of the Administration of Justice with regard to the efficiency thereof and the costs for citizens.

Stolen babies

Following the publication on December 26, 2012 of the Attorney General's Office Circular 2/2012 concerning the unification of criteria in the procedures due to the abduction of newborn babies, there is little news worthy of note. The number of complaints lodged over the course of 2013 has clearly dropped, due to most of the citizens affected now having been duly informed as to the steps to take and to what agencies they must go to request information and search for details.

Thus, the Ministry of Justice, in coordination with other administrative agencies, has set up the “Service for informing those affected by the possible abduction of newborns”, which furnishes the details

and administrative information available on biological relationships

Many cases which have been reported to the Attorney General's Office or the courts or which are either currently being processed or the investigative procedures are being opened by the Attorney General's Office have either been closed or the court has ruled a stay on the proceedings due to the crime not having been substantiated as having been committed.

In view of this situation, the Ombudsman informs the interested parties as to the impossibility of intervening in cases which are being processed through the courts or which have been stayed or closed. This Institution also informs them as to what is stated in the aforementioned Attorney General's Office Circular, in which other proceedings of a civil nature are set out as being available to those affected by the abduction of newborn babies.

Some of the possible proceedings worthy of special mention is that of the possibility of filing an appeal for reversal regarding the rulings having declared these cases closed, when no person were to have been arraigned or tried; taking recourse to the civil actions for claiming the actual biological relationship (Articles 131 et seq. of the Spanish Civil Code), contesting the fictitious relationship (Articles 136 et seq.) and the economic compensation for the moral damages sustained under the heading of extra-contractual civil liability (Article 1902 of the Spanish Civil Code).

PRISON FACILITIES

At the end of 2013, a total of 66,995 people were deprived of their liberty in Spain in 97 prisons. The inmate population lodged 541 complaints. A total of 49 ex-officio investigations were conducted on this subject.

Deaths

According to the latest official data published, 166 inmates died in 2012. Those who died averaged 46.5 years of age.

At the prison facilities managed by the Autonomous Community of Catalonia Government, a total of 43 deaths had occurred up to September 2013.

Abuse

The complaints lodged regarding abuse were of a twofold nature. On one hand, there are those of an individual nature lodged by a person deprived of their liberty, reporting a specific episode in particular in which he/she states having been ill-treated. On the other hand, complaints are normally lodged with a text which has been circulated through different prison facilities which – lodged either by an individual inmate or by a group of inmates – refers generally to having been subjected to abusive treatment, beatings, humiliations, harassment or torture. This group includes those which are processed through the Spanish Congress of Deputies Rogatory Committee and in those which a specific account prevents the opening of proceedings before the prison Administration. The remaining cases are those complaints in which the degree of detail of the account received affords the possibility of opening proceedings and requesting information from the Administration.

This Institution has insisted upon the need of complaints due to abusive treatment, independently of the judgment of truthfulness to which they may give rise in the Administration in a first analysis, having to be corroborated by means of getting in touch with inmate proper's version, as well as giving him/her the possibility of submitting evidence or requesting the taking of evidence. This Institution goes by the criterion of investigations of this type having to be conducted by specialized personnel who are not on the staff of the establishment where the events dealt with in the complaints occurred and that this be done in an atmosphere creating confidence on the part of the person who is setting out their problem.

The correct analysis of the complaints due to a possible irregular action on the part of the prison Administration requires availing of supplementary elements of judgment beyond what are normally differing accounts on the part the inmate and the prison official who is being attributed with the conduct in question. In this regard, the availability of a video-surveillance system and the recordings made serves to round out the internal investigations which are currently being conducted on this subject.

Complaints are also received regarding excessive physical force being used on the part of the prison guards in some cases during the mechanical immobilizations. The prison facilities operated under the Autonomous Community of Catalonia Government avail of recordings of all of the measures of this type which are carried out at the prison facility, thus affording

the possibility of immediately verifying the conditions under which the use of such a coercive methods has occurred. The Ombudsman has asked the Secretary General of Prison Institutions to also employ this practice at the facilities under the authority thereof.

Healthcare

This Institution recommended to the Prison Administration that it put a program into operation for the prevention of overdoses of toxic substances, taking the suicide prevention program as an example. This recommendation has met with acceptance by the Prison Administration, which is going to proceed to preparing a program for taking action concerning the subject of overdoses of toxic substances, with a multi-disciplinary focus, which will encompass preventive and therapeutic interventions and will be targeting several different groups.

Inmate Rights

The letters received by the prison inmates are recorded once they are received at the prison facility. The actual delivery of these records to the inmates is however not recorded.

For the purpose of achieving a better safeguard of the civil rights of those persons deprived of their liberty, a recommendation has been put forth concerning a record being made as to the letters and packages on record as having been received at the establishment actually being delivered to the inmates to whom they are addressed.

Over the course of this year, an accident occurred in which a Spanish Civil Guard vehicle for transferring prisoners was involved, ten prisoners and three officers having been injured.

This fact brings to light the need of the Administration expediting the steps currently being taken for equipping the vehicles used for transporting persons deprived of their liberty with suitable safety mechanisms. The need must also be recalled of handcuffing prisoners with their hands behind their backs solely in those cases in which highly well-established reasons so warranting concur, given that, in the event of an accident or unexpected driving manoeuvres, the person deprived of their liberty cannot in any way protect themselves from possible blows or impacts.

CIVIC RESPONSIBILITY & PUBLIC SAFETY

Victims of terrorism

The European Court of Human Rights handed down a ruling in October 2013 regarding what is known as the "Parot Doctrine". As has been repeatedly expressed, the Ombudsman shares the pain and desolation which this has caused the victims of terrorism. Therefore, this Institution accepted a complaint lodged by a victims of terrorism association for processing and gathered information on the enforcement of the ruling and the measures taken following the releases from prison so as to protect the victims.

In October 2012, several recommendations were put forth to the Ministry of Justice for their inclusion in the "Victims' Statute". The Ministry of Justice has currently reported that it is working on the bill for this legal standard which will be sent to Spanish Parliament over the course of 2014.

Law Enforcement Bodies

The incidents between police officers and citizens continue to be a source of concern for the Ombudsman. In 2013, a total of 21 complaints were lodged (compared to the 32 lodged in 2012) for alleged police brutality (8 of which were accepted for processing) and 56 (nearly the same number as in 2012, which totaled 58 in number) for ill-treatment. A total of 16 were accepted for processing.

Public Safety Law

The Public Safety Law was passed over twenty years ago. In view of the upcoming reform of this law, which is currently in the bill-drafting stage, the Ombudsman Institution is going to be keeping close watch over the changes under consideration, so that they will not in any way mean a curtailment of the exercise of the civil rights and liberties on the part of the citizenry.

Unsafe situations in public areas

The spread of drug dealing on the plaza and nearby streets in the district of Lavapiés in Madrid has given rise to complaints. Despite the residents in the area having reported this situation to the National Police,

these residents have seen no improvement in this unsafe, crime-related situation they say currently continues to exist in their neighborhood.

Similarly, processing has continued of the complaint lodged regarding the uncivil use and the unsafe situation existing in the Pradolongo Park in the district of Usera in Madrid, where the large numbers of people who congregate for drinking has caused problems of peaceful coexistence in the neighborhood and lack of safety on the part of the residents. Hence, a recommendation was put forth to the Municipal Government of Madrid for the facilities and furnishings for use as waste bins and toilet facilities to be increased and that the users be informed as to the hours and conditions for using the park so as to keep these uncivil behaviors from recurring.

Within the scope of the public entertainment and recreational activities which must be authorized by the competent administrations, mainly the municipal government, after previously having put forth the recommendation in 2012 as to the need of citizens knowing the list of New Year's Eve celebrations authorized within the territorial scope of each Municipal Government, this same determination has been repeated in 2012 to the Spanish Federation of Municipalities and Provinces in order for the advisability of publicizing a list of the 2013 New Year's Eve celebrations authorized within their territorial scopes to be relayed to the town councils pertaining to this Federation.

Right of assembly and demonstration

Police action during demonstrations has given rise to numerous complaints regarding the excessive use of force on the part of the Riot Police Squads and the use of riot-control material against the demonstrators.

A recommendation was therefore put forth to the Office of the Secretary of State for Security as to a protocol for taking action concerning the use of force by the Riot Police Squads at large demonstrations of individuals on public thoroughfares being prepared, clearly and precisely governing the way and the circumstances under which these squads can employ force, regulation weapons and riot-control material.

The Office of the Secretary of State for Security has not taken the recommendation put forth by this Institution, on considering that a protocol cannot

cover all of the many different situations in which police officers must use force, nor the widely-varying casuistics of the ways in which this must be carried out.

As far as the use of rubber bullets is concerned, this Institution conveyed to the Directorate General of the Police the need of conducting studies for assessing the degree to which they are dangerous and requested information on the current plans for setting out a new regulation.

The Directorate General of the Police considered it necessary for a study to be conducted which would specifically determine the risks of rubber bullets causing injuries for the purpose of redefining the parameters for their use. The study in question concluded that the riot-control material must only be used in duly warranted extreme cases after first being authorized by the chief of the force taking action.

The Office of the General Commissioner of Public Safety has sent out a circular to all of the Police Headquarters concerning the use of riot-control material in which the launching of smoke bombs, tear gas and rubber bullets is governed, a distinction being made between two types of cartridges for firing. Said Office has also undertaken the commitment of regulating the procedures for the use of riot-control material by setting up a control system reflecting the use thereof.

Police officer identification

In compliance with a recommendation put forth by this Institution, the Directorate General of the Police issued a decision on April 19, 2013 by virtue of which the Riot Police Squad officers must wear a readily-visible identification numbers measuring 4.5 centimeters on a backing 27 centimeters in length by 65 centimeters in width which will afford the possibility of correctly identifying the officer wearing the same. This new regulation marks a major step forward on the order of guaranteeing the rights of citizens to be able to identify the authorities.

Arrests

A recommendation has been put forth to the Ministry of the Interior regarding the fitting budget allocations being included for correcting the deficiencies

detected in the visits conducted by the Ombudsman to the facilities for the deprivation of liberty.

The deficiencies in the National Police and Civil Guard facilities have to do mainly with the video-surveillance systems or the call buzzer systems; the upkeep, maintenance, inhabitability and cleanliness of the jails and the characteristics of the facilities which could facilitate self-injuries on the part of the detainees.

The Ministry of the Interior Office of the Secretary General for Technical Affairs has informed this Institution as to the plans for correcting some deficiencies, although due to the high costs of some of the improvements recommended, it is not possible for all of them to be undertaken right away.

“Botellón” or congregating for binge drinking in outdoor public areas

This Institution is aware of the fact that in the activity commonly referred to as a “botellón” (congregating for binge drinking in outdoor public areas), it is very hard to tell who actually is and who isn’t drinking alcohol, but it must be taken into consideration that only those responsible for the offense, that is to say, the person who is drinking alcohol in an outdoor public area can be fined. To this end, it is necessary to substantiate the individual responsibility of each one of the citizens identified.

A recommendation has been put forth to the Municipal Government of Madrid with regard to it setting up a valid system for verifying the alcoholic content of the beverages which are being consumed in outdoor public areas which is not the mere sensory perception of the reporting officer for the purpose of adequately documenting the fine-

charging process and confirming that a person is incurring in conduct classified as an offense under law. A recommendation has also been put forth to the Municipal Government of Madrid to assure full compliance with the requirement of notifying the person having committed the offense as to being reported by the police so as to prevent any possible defenselessness on the part thereof.

In its reply, the Municipal Government of Madrid states that it will make certain to equip the police officers with a system capable of providing in situ detection of the alcohol content of the beverages being consumed.

Traffic

The traffic-fining procedure gives rise to the largest number of complaints received in the Security and Justice Department of all those subject to being accepted for processing. The complaints on this subject totaled 468 in 2013, practically the same number as in 2013. Hence, a total of 172 complaints on this subject were accepted for processing (compared to the 127 accepted in 2012), the percentage of complaints accepted having increased significantly. The notifications entailing defects, the errors of different types on the part of the officers or the lack of visibility of the signs/signals having warranted actions having been taken by the Ombudsman in this field, many of which met with success.

It is necessary that all of the administrations having authority over highway safety and traffic step up their efforts for respecting the procedural guarantees for the purpose of doing away, to the extent possible, with the widespread perception on the part of the citizenry as to the sole end purpose of the fining procedures being for purposes of collecting money.

Migrations and Equal Treatment

The Spanish Ombudsman's human trafficking-related recommendations have meant major improvements for trafficking victims in 2013

In 2013, visits were conducted to the Alien Detention Centers in Las Palmas, Tarifa, Murcia, Madrid and Barcelona. Inspections were also conducted at the “Fuerte de la Purísima” juvenile facility in Melilla, the “San José-Hadú” and “Mediterráneo” facilities in Ceuta and the Temporary Immigrant Holding Centers in Ceuta and Melilla. In October, an update was presented to the monographic study “Human Trafficking in Spain: Invisible Victims” (2012). A total of 25 of the 27 recommendations put forth have met with acceptance.

Assistance and protection abroad

A major number of the complaints lodged by the Spanish citizens who are residing or temporarily located abroad regarding the actions of the consulate revolve around the difficulties involved in accessing the information on the different processes and in communicating with or accessing the consulate offices. The increase in the number of Spanish citizens abroad has revealed the insufficient human and material means for being able to provide this service appropriately.

Spanish citizens imprisoned abroad

According to information furnished by the Ministry of Foreign Affairs and Cooperation, at December 31, 2013, a total of 2,027 Spanish citizens were deprived of their liberty abroad.

In 2013, an ex-officio investigation was gotten under way with the Office of the Secretary of State for Justice and the Directorate General of Spanish Citizens Abroad and Consular and Migratory Affairs. Thus, a request was made asking for an updated list showing all of the Spanish citizens who have currently requested their transfer to serve out their sentence in Spain, stating the prison facility where they are located and the date on which they placed their request for being transferred to Spain.

Apart from the above, information has been requested on the territories where the economic aid under the heading of aid to Spanish citizens deprived of liberty had been eliminated in 2013.

On the occasion of the meeting of the Ibero-American Federation of Ombudsmen in Lima, Peru, the Ombudsman visited Spanish citizens at two prison facilities in that country. As a result of that

visit, investigations were begun regarding the frail health situation of some of these citizens.

On the occasion of the supervision of an alien repatriation flight to Bogota, Colombia, Spanish citizens were visited at three of the prison facilities in Bogota, several investigations being gotten under way. Similarly, the transfer to Spain of eight Spanish citizens imprisoned in Quito and 31 in Bogota was supervised.

Investigations were also gotten under way following the visit which the Ombudsman made to the Spanish citizens imprisoned at a Prison Facility in Istanbul (Turkey).

Within the scope of convict transfers, the investigations have continued for the purpose of ascertaining the average lengths of time for processing these cases. The greater or lesser degree of expeditiousness for making a transfer depends not only on the Spanish Ministry of Justice but, above all, on how readily and how fast the documentation is furnished on the part of the other State.

In 2013, the Council of Ministers approved the transfer to Spain of 358 people (a total of 392 transfers had been requested). At December 31st, a total of 267 of these transfers had been made.

Entry into Spain

In 2013, visits were made to two of the border patrol stations in the City of Melilla. Following the visit to the Beni Enzar Border Patrol Station, this Institution requested an integral improvement of the facilities, which, in its opinion, do not meet the necessary minimum requirements for managing the heavy traffic of people and vehicles passing through daily. The Administration announced its intention of carrying out improvement works for upgrading the aforementioned facilities. This investigation is currently still open for the purpose of being informed as to the date on which the works will be commencing.

As far as the visit to the “Barrio Chino” Border Patrol Station in Melilla is concerned, investigations have been gotten under way with the Office of the Secretary of State for Security for the purpose of undertaking an improvement of the facilities and seeking new approaches making it possible to manage the traffic of people and goods in a more expeditious, orderly manner.

The refusals of entry through border control points set up for this purpose, especially at airports, continues to be, once again this year, where urgent actions have been taken on the part of this Institution. The difficulties are continuing regarding the entry of family members of citizens of the European Union and Spanish citizens through the border control stations.

In 2013, acceptance has been taken of a recommendation put forth to the Office of the Commissioner for Alien Affairs and Borders, thanks to which the aforesaid agency has sent out instructions to all of the border control stations to guarantee the right of entry and residence in the European Union States to its citizens and their family members without any other restrictions that those related to reasons of public order, public health or public safety, in accordance with the legislation currently in force.

Illegal alien entry

In 2013, different incidents have taken place as a result of immigrants entering or attempting to enter border areas either by land, by climbing over the border fence or by sea. In all of the cases, the complaints lodged revolved around the expeditious return of the immigrants, which does not respect the alien affairs legislation or the Geneva Convention concerning refugees.

Another matter regarding which this Institution was spurred to action was that of razor wire being installed on some sections of the fencing around the perimeter of the border with Morocco in Melilla. This razor wire had been installed in 2005, then later removed at this Institution's request and then installed once again in 2013.

The Ombudsman Institution is aware of the need of setting up effective methods for stopping those who aim to illegally enter the country, but it considers that these methods must be respectful of human rights and abide by the Spanish legal system.

Therefore, the Ombudsman has put forth a recommendation to the Ministry of the Interior regarding the razor wire being removed and instructions being given to the Directorate General of the Spanish Civil Guard so that all of the officers serving on that border will be reminded that when an alien attempting to enter Spain illegally is apprehended, that said person be taken to the National Police Corps offices so that the fitting administrative proceedings for which provision is made under the legislation in force may be instituted.

Temporary Immigrant Holding Centers

In 2013, visits were conducted to the temporary immigrant holding centers in Ceuta and Melilla. At the point in time of that visit, in May 2013, there were 518 immigrants housed at the center in Ceuta. This center has a maximum capacity of 512 residents. Among the residents were six family units with seven underage children.

The two visits conducted to the center located in Melilla, which has a capacity for 480 people, revealed its constant overcrowding. In 2013, this center started out with 973 residents, this being a situation which has remained the same, undergoing only slight variations, throughout the entire year. On the date of the last visit conducted, in November, there were a total of 977 people residing at the center, 177 of whom were minors.

The average length of time throughout which these residents stay at these two centers continues to be very long in both cases, although having been noticeably shorter if the 2013 data is compared to the average length of stay for previous years.

A recommendation has been put forth to the Directorate General of the Police and to the Office of the Secretary General for Immigration and Emigration as to a revision being made of the criteria set out for selecting residents which can benefit from the refugee program.

In this Institution's opinion, the criterion on which prime importance must be placed when selecting the profile for transfer to the mainland must be based on the situation of particular vulnerability; on one hand, the family units who have dependent minors and, on the other hand, those persons needing international protection.

This Institution has similarly reiterated the need of drafting a specific plan for the prevention and detection of victims of trafficking and also the need of providing the personnel with suitable training on this subject.

It must be pointed out that headway is being made regarding this aspect, as far as the identification of the minors residing at the center and DNA tests being conducted is concerned, this being a question taking on a major degree of importance for determining

whether they have family ties with the adults with whom they arrived and are residing.

Unaccompanied underage foreign nationals

In regard to the process of determining the age of those aliens whose status as being underage minors cannot be determined in all certainty, the Ombudsman presented a monographic report in 2011 titled "Children or Adults?: Age Assessment Practices", in which a total of 41 recommendations were put forth, most of which have met with acceptance. At the end of 2013, four of the investigations started were still ongoing.

The Framework Protocol for Unaccompanied Underage Foreign Nationals for which provision is made under the alien affairs regulations has still as yet to see the light. However, the Office of the Secretary General for Immigration and Emigration is continuing to promote the preparation thereof and has furnished this Institution with a first draft, incorporating many of the recommendations made by the Ombudsman.

Despite the Alien Affairs Law ordering that the age-determining procedure be put into practice solely in those cases of undocumented aliens whose status as being minors cannot be determined in all certainty, complaints have continued being lodged regarding people holding passports or other documentation standing as proof of their being underage being put through procedures for determining their age.

Complaints have continued being lodged regarding the termination of the custodial care of the unaccompanied minors due to their abandoning the juvenile protection center where they were residing. In this regard, it has been reiterated that the Spanish Civil Code orders the termination of custodial care for specifically stated reasons, said absence not being one of those included.

As far as the Registry of Unaccompanied Underage Foreign Nationals is concerned, an explanation was provided in the 2012 report concerning the changes made in the functioning thereof following the Attorney General's Office having issued Instruction 1/2012 attributing said agency with the coordination of the instances involved.

Despite the measures adopted, which have meant the improved operation thereof, individual complaints have still continued being received from time to time concerning age-determination procedures being carried out on minors who had already gone through such procedures previously. Similarly, the investigations have continued focusing on the coordination among the different state, autonomous community and municipal police forces with regard to entering and querying the data.

This Institution is still finding the document-related situation of those minors who have reached legal age after being under the custodial care of the Administration to be cause for concern. In view of the complaints lodged, certain Government Delegate's Offices are still continuing to cancel the residence permits granted when these persons reach legal age. This Institution has repeatedly called attention to the erroneous nature of this practice.

Visits to Juvenile Centers

In December 2012, a visit was made to the “Fuerte de la Purísima” Juvenile Center in Melilla. One of the most noteworthy conclusions reached as a result of this visit is that this center does not meet the requirements to be considered a long-term residential resource.

In May 2013, technical personnel from this Institution visited the San José-Hadú Shelter in Ceuta, to which the juveniles who had been living at the “La Esperanza” Juvenile Center were transferred following that center having been closed due to its not fulfilling the minimum necessary requirements, as has been discussed in previous reports.

Incorrect processing of the documentation of minors continues to be detected as far as the nine-month time frame for requesting residence permits is concerned and also the practice of terminating the custodial care of those minors who abandon the center.

Around that same time, a visit was also made to the “Mediterráneo” Juvenile Center in Ceuta, the conditions and infrastructure of the facilities having been found to be appropriate for fulfilling their mission following the improvement work done.

It was requested that a protocol for detecting victims of trafficking be set up, given that there are minors living

at this Center who are showing several indications of a profile as potential victims of human trafficking.

Alien Detention Centers

A recommendation was put forth in April requesting that a protocol be prepared for healthcare referrals to be employed in the transfer of residents of the temporary holding centers to the detention centers to enable the medical services at the center to which these people are transferred to know the medical history of these inmates and their prescribed medical treatments. This recommendation met with acceptance.

This Institution learned of the death of an inmate at the Alien Detention Center in Barcelona in the early morning hours of December 3rd, technical personnel from this Institution therefore having gone to said center to inquire into the circumstances of this death. Following the visit, a request was placed with the police authorities to furnish certain information as well as material recorded on video.

Afterward, an association contacted this Institution notifying the start of a hunger strike by inmates at that facility, as well as the Riot Police Squad having entered the center on December 31st. The investigations are currently ongoing.

In their twofold capacity representing both the Ombudsman Institution and National Prevention Mechanism Against Torture, technical personnel from this Institution visited the Alien Detention Centers in Las Palmas, Tarifa, Murcia, Madrid and Barcelona in 2013. The recommendations stemming from these visits will be set out in the annual report of the National Prevention Mechanism Against Torture.

Following the visit to the Alien Detention Center in Las Palmas, the need was once again detected, which is common to all alien detention centers, of modifying the information provided concerning the possibility of requesting international protections, all of the inmates being furnished with pamphlets in their own language.

The regulations¹ governing the functioning and internal regimen of the controlled alien residence

¹ The Regulation was published in March 2014, after the annual report was presented.

centers, the draft bill of which was submitted by the Ministry of the Interior in 2012, has still as yet not been passed. Over the course of 2013, there has been constant dialogue with the non-governmental organizations which provide social welfare services at these centers, as well as with other entities, which have conveyed their concerns and suggestions to the Ombudsman with regard to the existence of the Alien Detention Centers and different issues regarding their functioning.

In May, it was considered necessary for several recommendations to be put forth to the Directorate General of the Police concerning the Alien Detention Centers. Some of the most outstanding of these recommendations were those regarding the checks of an alien's personal, family and document-related situation, said details having to be attached to the petition for detention brought before the judicial body; to arbitrate means for making the right to social assistance to the inmates an actual reality; to intensify the controls for monitoring the agreements signed with the companies providing healthcare; to guarantee the communication of the inmates with the outside world and the possibility of availing of their cell phones; as well as notifying the inmates far enough in advance as to the date of expulsion and all other circumstances related thereto. Most of these recommendations have met with acceptance.

Expulsions and returns

Complaints continue to be lodged putting forth foreign nationals' disagreement with the enforcement of the expulsion in those cases in which the alien in question states having been subjected to ill treatment on the part of the Law Enforcement officers or states having witnessed such events. In these cases, the usually occurs is that, in addition to the alien filing a complaint for ill treatment, there is another complaint filed for injuries by the officer in question.

In these cases, the Ombudsman maximizes its surveillance without detriment to the investigations instituted by the competent judicial authority for the alleged criminal offense, of which the fitting surveillance is also carried out. Therefore, as soon as a case of possible ill-treatment of an alien comes to light, an investigation is then gotten under way and in the cases in which the alien in question is deprived

of his/her liberty, a visit is made to wherever the alien in question is located at that point in time.

Victims of human trafficking

In October 2013, an update was presented to the conclusions and recommendations put forth to the different government bodies by the Ombudsman as a result of the monographic report of 2012 on "Human Trafficking in Spain: Invisible Victims". A total of 25 of the 27 recommendations put forth have met with acceptance, two having been rejected.

Progress has been found to have been made in combatting human trafficking. Thus, trafficking-combatting strategies have been set out; national plans have been created, such as the police plan against trafficking for purpose of sexual exploitation or the working agreement between the Ministry of Employment and the Ministry of the Interior for combatting illegal employment and Social Security fraud.

This Institution finds the progress made to be positive, however also considering there to be challenges still as yet to be met. Thus, it points out needs including that of determining ways of protecting the victims beyond their key witness status in criminal proceedings. This Institution also asks that the work be expedited to prepare a protocol for combatting trafficking aimed at exploiting people for work-related purposes.

Apart from the above, all of the Autonomous Communities and the cities of Ceuta and Melilla have demonstrated their willingness to collaborate in the preparation of a national protocol for detecting and providing care for minors who are victims of human trafficking. The Office of the Secretary of State for Social Services and Equality has committed to promoting the work of the preparation thereof, and the National Health System Interterritorial Council Commission Against Gender Violence has developed a common methodology for the process of identifying, compiling and disseminating good practices.

Consular offices

A major number of complaints have been lodged regarding the decisions refusing visas for reuniting family applied for by spouses of alien residents, on

the consular bodies considering their marriages to be sham marriages.

Alien Affairs Offices

The Ombudsman has continued detecting exceedingly long delays in the processing procedures carried out for both aliens legally residing in this country and the citizens of the European Community and their family members through the alien affairs offices.

Residence permit procedures and related issues

Most of the issues have to do with the difficulty of gaining entry into Spain on the part of citizens of a third country who have married a Spanish citizen abroad and who are awaiting the actual registration of the marriage in the Central Civil Register.

This year, a major number of complaints have once again been lodged concerning the refusal to issue the residence permits as a family member of a citizen of the European Union, on having considered the unfavorable reports of the police authorities to be a determining factor. The evaluation of these reports has been a source of discrepancy between this Institution and several Government Delegate's Office and Deputy Delegate Offices.

Asylum

This Institution is still continuing to call for the publication of the Asylum Law regulations. The last justification alleged was the need of incorporating the new European Union standards into the current draft bill.

The delays in decisions being issued to the petitions for international protection are still a cause of complaint once again this year. The Sub-directorate General of Asylum justifies the delays on the basis of the complexity of the petitions.

Special attention is being focused on the problems regarding the minors requesting asylum. In these cases, one of the aspects which is usually at stake is that of determining that these persons are actually underage. The investigations show that status as a

minor is questioned and osteometric tests are ordered as a result of there being doubts as to the authenticity of documents, despite there being certifications from diplomatic channels substantiating their authenticity.

The other way around, age-determining tests are refused to be conducted as a result of a document in which it is stated that there has been no manipulation of the page stating the personal details being considered to be authentic.

It must be stressed that the presumption of underage status, in the event of doubt, takes on special importance in those cases in which indications exist as to needs for international protection. If indications exist as to human trafficking, the regulations specify that the person in question must be considered to be a minor.

This Institution finds the situation of the persons in need of international protection who are residing at the Temporary Immigrant Holding Centers in Ceuta and Melilla to be cause for concern. In 2012, solely 2.20% of the residents at the Center in Melilla applied for asylum. This figure began dwindling following the Asylum Law having entered into effect in 2009.

Hence, while the applications for international protection at the Temporary Immigrant Holding Center totaled around 20% in previous years, the applications for asylum totaled 10.87% in 2010, 3.20% in 2011 and 2.20% in 2012. This trend is holding true in 2013, given that throughout the first eight months of this year, solely 17 people (of the 1,682 who had gone through this Center by August) had formalized their application for international protection.

Following the entry into effect of the Asylum Law, the Office of the Secretary of State for Security considered that freedom of movement throughout the rest of Spain should be prevented for those persons applying for asylum in Ceuta and Melilla, hence nearly all applications having ceased to be filed in these cities.

In March 2013, the Ombudsman Institution reiterated its recommendations as to instructions being given for the purpose of allowing their entry onto the mainland. It was considered fitting to once again put forth the arguments rejected in due course in view of the court ruling handed down by the Higher Court of Justice of Andalusia being in agreement with this Institution's arguments. The complaint was closed with a difference of opinion on the recommendation not having been accepted.

In 2013, the number of citizens of other countries regarding which the UNHCR has put out calls for non-return, such as Mali and Syria, have grown incessantly in the two autonomous cities. For example, on one of the visits to the Temporary Holding Center in Melilla, 202 Mali citizens were at the Center, but none of them had filed an application for international protection, and only 2 of the 13 Syrian citizens had done so.

The only reason for which they are refusing to file application for international protections has to do with their being aware of what a long period of time they have to remain at the Temporary Immigrant Holding Centers in these cities until their refugee status is recognized.

The consequences of the aforementioned situation have a direct bearing, on one hand, on the credibility of the Spanish international protection system abroad and, on the other hand, on the worsening of the particularly vulnerable conditions in which these persons find themselves. And, lastly, this contributes to distorting the reality of the migratory flows which are trying to enter Europe illegally from Africa via Ceuta and Melilla. This distortion may also have an impact on access to the European Refugee Fund, given that they are governed by objective criteria reflecting the burden which each member State takes upon itself within the scope of asylum policies (i.e. in 2012, a total of 2,588 applications were filed; 77,650 in Germany and 17,350 in Italy).

EQUAL TREATMENT

Further complaints were lodged in 2013 regarding police identification checks based on ethnic and racial profiling which gave rise to five recommendations to the Directorate General of the Police for the purpose of setting out the use of identification record forms stating the ethnic background, race and/or nationality of the person whose identity is being checked and the reason for this identification. It was recommended that the use of these forms be explained in a procedure Manual for all National Police Force officers and that a statistical system be prepared for compiling and monitoring the data broken down by race, ethnic background and/or nationality.

It was also recommended that the officers be provided with specific training on the subject of

cultural diversity and practical skills as to how to conduct identification checks in accordance with the principle of equality and non-discrimination. And for the purpose of guaranteeing actual safeguarding against discrimination, it was recommended that a complaint mechanism be set up in charge of taking individual complaints from persons on whom this type of identification checks have been conducted.

The Directorate General of the Police informed this Institution as to the difficulties which the Data Protection Law was causing them with regard to compiling the data on the suggested forms, the Ombudsman having tentatively suspended its investigation with said Directorate in order to open up investigations with the Data Protection Agency.

Complaints were also lodged by representatives of associations of women involved in filmmaking and audio-visual media, complaining as to the Law for the Equality of Men and Women in the Realm of Cultural Pursuits not actually really being enforced in fact.

Investigations were therefore gotten under way with the Office of the Secretary of State for Culture for the purpose of ascertaining the measures for making the balanced promotion of men and women a reality on the controlling and governing bodies of the public institutions in the cultural realm and of all of the entities which operate under the Ministry of Education, Culture and Sports. Investigations were also gotten under way with the Directorate General for Equal Opportunities in order to ascertain what measures have been proposed to the government bodies within the scope of education and culture for the professional promotion of women and for fostering their access to executive posts and positions of responsibility.

At the closing of this report, the contents of the responses received are being assessed, and the organizations which had lodged the complaints have been informed thereof so that they may make submissions.

Investigations have also been gotten under way for ascertaining what initiatives have been adopted for the promotion of women at museums, the existence of active policies for artistic and intellectual creation and production by women, the promotion of the balanced presence of women and men in the public cultural and artistic offerings, and the promotion of affirmative actions for artistic and intellectual production and creation by women.

Education and Civil Service

The Government accepts the determinations put forth by this Institution for promoting the reuse of textbooks

The complaints lodged in 2012 have not so much to do with the fundamental right to education, which is reasonably met, but rather the quality of the services for providing that education. The Organic Act for the Enhancement of Educational Quality (LOMCE) was passed as 2013 drew to an end and will begin being implemented during the upcoming academic year. One of the indispensable conditions in order for the new law to achieve its objectives of improving the quality of the education provided is that sufficient material resources be allocated for putting this education into practice. It is necessary for the educational facilities to be adapted, the classroom academics scheduling to be revamped, the teaching materials to be renewed and, no less important, it is important to staff the system with a sufficient number of suitably-trained teaches able to put this system into practice.

EDUCATION

Non-university education

School facilities

The delays in school building construction have given rise to long-term use of temporary facilities. Investigations have been gotten under way in the Autonomous Community of Valencia and in the Autonomous Community of Aragon.

As far as the conditions of healthfulness are concerned, asbestos has been found to be present in the roofs on some schools on the Canary Islands, it a periodic inspection plan therefore having been recommended for determining whether a health hazard exists for those using these buildings.

Student admissions

The Autonomous Community of Madrid admission criteria at different educational levels have given risen to complaints. In the first cycle of childhood education, the situation of the parents being unemployed is not taken into consideration. The Ombudsman has recommended that the criteria be modified in this regard. In its response, the Office of the Autonomous Community of Madrid Department of Education avoided making any statement regarding this request. The Ombudsman has also requested that the procedure for admissions to higher-level vocational training, which awards higher scores to those applicants which come from schools within the Autonomous Community of Madrid, be revised. The educational administration has been urged to study the degree to which the scale is in keeping with the Constitution.

Also in Madrid, for the cases of student who have the same point scores, provision is made for a tie-

breaking drawing at each school, setting the first letter of the surname as of which the openings are to be assigned, the options being reduced when the surname begins with the same letter as the most common surnames and are listed after them in alphabetical order. The Autonomous Community of Madrid Department of Education has replied that the possibility of holding a drawing different from the once questioned by this Institution will be analyzed.

Academic organization

Access to vocational training testing has been giving rise to complaints for some years now, due to there being requirements in several educational administrations for preventing candidates from other Autonomous Communities from taking part. At the request of the Ombudsman Institution, the Sectorial Education Conference has agreed not to prevent the participation of students from other Autonomous Communities and, if necessary, to stipulate a maximum number of participants and to employ a requirement of precedence instead of the requirement regarding the Autonomous Community from which the students come.

Student aid

Complaints have been lodged due to delays in the payment of aid already granted by the Autonomous Community of Valencia for purchasing textbooks. In regard to the elimination of the aid in the Autonomous Community of Galicia for school lunches, an ex-officio investigation was launched. This aid had been replaced by allowances and exemptions on the established prices, given that, according to the Autonomous Community of Galicia Education Department, the contributions of the families are necessary for maintaining the system and increasing the number of school lunchroom openings.

In 2012, the Ombudsman opened an ex-officio investigation for the purpose of ascertaining the evolution of the programs and measures for the purchase, loan and reuse of textbooks for compulsory schooling since 2008, when the first restrictions on public spending took place. A major cutback has been found to exist in the amount of the funds and in the number of students benefitting from the same. Major differences exist from one

Autonomous Community to another with regard to making textbooks free.

The determinations put forth aimed at encouraging the reuse of textbooks, not only for reasons of economy but also for contributing to the educational process by creating attitudes of respect, proper use and taking care of public property have met with acceptance. These recommendations were included in a study titled "Making Textbooks Free: Programs, Aid, Loans and Reuse".

As regards school transport, the recommendation has been put forth to the Autonomous Community of Galicia Government Department for Culture, Education and University Regulation as to the school transport service being started up again for those schools which have adopted an uninterrupted school day schedule and which have extracurricular activities in the afternoon. In the Autonomous Community of Madrid, it was recommended to staff school buses with personnel possessing healthcare training when any student who has a major disability rides on the bus in question, but this determination has not met with acceptance.

University education

University Admissions

At the start of the 2013-2014 academic year, the same problems arose as in previous years, caused by the lack of coordination among the different universities regarding the deadlines for completing the selection processes for the start of the academic year.

A recommendation was therefore put forth to the Directorate General of University Policy so that, on the occasion of the drafting of the Organic Act for the Enhancement of Education Quality (LOMCE) then under way, an admissions procedure must be set out which would unify the time frames for student registration and the start of the academic year at all universities. The ministry explained that the Organic Act for the Enhancement of Education Quality would leave the universities an ample margin of autonomy with regard to admission of degree program students, but that the recommendation will be included in the Royal Decree further expanding upon the article governing access in the new terms thereof.

In the case of Medical Degree studies, the difficulties are greater, due to the large-scale demand, as a result of which a national admissions system stipulating one single admission procedure was recommended. At the General University Policy Conference held in March 2013, the head of the aforesaid Department undertook the commitment of setting up a single pre-registration system at the Medical Schools which will be implemented for the 2014-2015 academic year.

Apart from the above, the calculation of the grades for admission to the official degree programs is still giving rise to discrepancies, as are also the contents and results of the admissions tests, in addition to there being no homogenous criterion for adapting the tests and enabling the students with disabilities to take the tests orally.

Specific aid for the students who have major disabilities

Students having major disabilities who are registered students at the Complutense University of Madrid brought up the issue that, at the beginning of 2012, the aid they had been receiving for transportation from their homes to the university on public transport has been totally eliminated. Also the individualized assistance, which requires the constant collaboration of someone for carrying out the daily activities on the university campus. The university set up a program of volunteers but did not avail of any funding for this purpose from the administrations responsible for providing assistance to persons with disabilities. The Ombudsman broadened the ex-officio investigation to take in all of the public universities in Madrid, which showed that these services are being carried out by volunteers, with economic resources and aid from other institutions, however no administration having undertaken any responsibility in this matter to date.

The universities also apply exemptions in the payment of the registration fees for the students who have disabilities, these costs not being assumed either by the Autonomous Community educational administration or by the State administration, as a result of which a recommendation was put forth to both as to their determining the attribution of the duty of compensating the universities for the expenses resulting from the assistance provided to the students who have disabilities and for the exemption from the public registration prices.

Scholarships, aid, grants and research fellowships

Numerous complaints have been lodged due to the academic requirements having been made stricter, the decrease in public aid for higher education studies and the change in the way in which financial aid is allocated. The mobility grant has been replaced by the "student residence stipend for the academic year" and has undergone a remarkable reduction in the fixed amount, which is detrimental to students in rural areas or located far from the university. The equation for calculating the variable amount additionally makes it impossible to know the total amount of the aid granted until almost at the end of the academic year, creating uncertainty.

The Ombudsman has stated her concern to the Office of the Secretary of State for Education regarding the effects which the new requirements might have on those students who were admitted to the universities under the formerly-existing requirements. The Office of the Secretary has replied that the grade point averages required were not established arbitrarily, and that the amount devoted to scholarships, fellowships, grants and aid has remained the same since 2011 and will be increased in 2014.

Another problem related to the scholarships / fellowships / grants is the failure to comply with the deadlines for the selection of candidates, which leads to the decisions as to the granting thereof taking place far into the academic year.

It was requested that the time period for repaying the loans granted through the Official Credit Institute University Income Loan Line be extended, given the complicated current situation of many young people who are unemployed. Regarding the Erasmus program, a large number of complaints were received when, the academic year having already begun, changes were made in the criterion for the award process, it being required to have been awarded a scholarship of a general nature in order to be granted the supplementary contribution from the State. In response to the measures taken by the Ombudsman Institution, the Office of the Secretary General of Universities modified the rule questioned, making it possible for students who had not been awarded a general scholarship to gain access to this aid. The amount would depend on the number students applying for the same and

the budget available, in an attempt to adjust them to the requirements of the European Union.

Other scholarships, grants and aid which have given rise to complaints have been that of the Seneca Program of grants for mobility among Spanish universities. In this case due to processing-related problems, which required an excessive degree of vigilance on the part of the applicants, not being geographically isolated and being able to readily access the website of the department calling for applications. There were also difficulties involved in the processing of the grants of the National Human Resources Mobility Program and with the requirements which the Autonomous Community of Madrid set for being awarded scholarships for academic excellence, the implementation of which left out numerous students worthy of these scholarships.

University degrees

The slow pace with which the applications for recognition of foreign degrees in Health Science specializations awarded in non-European Union countries are processed was put to investigation. A reminder was put forth to the Ministry of Health as to its legal duty of complying with the terms and time periods and of notifying the express decision and informing in due time.

It was recommended that special measures be adopted for expediting the thousands of applications pending by increasing the personnel or setting out organization criteria minimizing the negative repercussions caused in these situations.

Those holding civil engineering degrees according to course curriculums prior to the implementation of the European Higher Education Space are having tremendous difficulties with regard to gaining the academic and professional recognition of their degrees, especially for working at their profession abroad, because no automatic official validation mechanism has been set up, and the five-year B.S. in Engineering awarded in Spain is not homologated with the Master's Degree required in the European Space. In response to an information investigation, the Directorate General of University Policy informed as to work beginning on a draft Royal Decree, but in light of the delay in carrying this out, the Ombudsman put forth a statement as to the advisability of expediting the process both for the case of the engineers and for other degrees.

CIVIL SERVICE AND PUBLIC EMPLOYMENT

Access to public employment

Public employment has been affected greatly by the economic crisis and by the obligations stemming from the fiscal consolidation process.

The Ombudsman deems it advisable to progressively do away with the restrictions insofar as the budget availabilities so allow and ensure sufficient, well-dimensioned public employment which is suitably well-paid and professionalized.

In 2013, the incorporation of new personnel was limited to the personnel coming from selection processes from previous years or from military posts. The restrictions were likewise maintained on the hiring of temporary employees and the appointment of temporary substitutes. In the calls for applications for the very limited number of selection processes carried out, there were complaints as to compliance not being rendered with the principles of stringency, merit and capability. Selection processes already under way were halted by the economic situation and, in others, involving a massive number of applicants, complaints have arisen alleging the lack of transparency, given that the requests of many citizens who were not selected and who contested the evaluation of the results and requested a copy of their exercises found their requests to have gone unanswered.

Provision of jobs and mobility

The high rate of temporary employment has given rise to complaints. Also that the administrations are not publishing competitive processes for transfers offering openings currently occupied by temporary substitutes or permanent civil servants but appointed on a temporary basis. For this case, an investigation was gotten under way with the Office of the Secretary of Prison Institutions.

As regards the teachers, the Autonomous Community of Madrid eliminated from its teaching staff regulations those degrees which had formerly made numerous candidates eligible for the lists of substitutes, these being degrees recognized in

other Autonomous Communities and accepted by private schools within the Autonomous Community of Madrid. Investigations have also been gotten under way concerning this issue. Mention must be made of the fact that the Ombudsman does not agree with the Autonomous Community of Madrid's criterion of hiring native English-speakers in secondary schools, given that there are teachers awaiting to be assigned schools who possess a degree sufficing to hold these positions.

The investigations carried out due to complaints regarding mobility have shown that, on there being a smaller number of priority sectors, the limitation of mobility is affecting fewer civil servants. In the State Public Service Employment sector, this restriction has been being applied for some time now, and it would therefore be advisable to arbitrate approaches affording the possibility of exercising the right to mobility without detriment to the provision of the service.

On voluntary inter-administration mobility not being possible to be carried out, it is not only a hindrance to a more efficient use of resources, but also to the conciliation of work and family life. Regarding the statutory personnel of the health services, the provision is made for the voluntary mobility procedures under the regulations which are made preferably every two years with the participation of the personnel from all of the health services, with the same conditions and requirements as the statutory personnel of the health service announcing the procedure. Ex-officio investigations were gotten under way due to the failure to comply with the periodicity for the announcing procedures, no homogeneous catalogue of equivalences in the occupational categories having been found to exist. In its response, the healthcare administration has said that it has started preparation on this catalogue.

Concerning Autonomous Community Administration civil servant mobility, following a recommendation put forth to the Autonomous Community Government of Extremadura, this administration has opened a competitive procedure for transfers for unindividualized civil service personnel positions, the commitment having been made to open a procedure for the individualized civil service personnel positions. The Autonomous Community administration public service personnel have also filed complaints on not having the alternative of inter-administration mobility. The Offices of the Secretary

of State for Public Administrations has accepted the recommendation of promoting mechanisms for making mobility a truly real possibility.

Public employee pay

Public employee pay cuts have given rise to many complaints. Several court rulings have recognized the right to collect at least the part due and payable of the bonus pay of December 2012, as had been recommended by this Institution. Other complaints have to do with the relationships among job positions (RPT) which determine their characteristics, compulsory requirements and pay, compliance with which is not rendered mainly within the realm of the local administration.

Other complaints have to do with the elimination or reduction of wage supplements. In the case of the temporary disability benefit, the differing criteria can give rise to inequalities, as a result of which the investigations are currently ongoing, and the conclusions will be set out in the upcoming annual report.

Leave

The Basic Public Employee Statute does not expressly make provision for the possibility of a father who is a civil servant being able to accumulate lactation leave into full workdays. It has been recommended that the express mention be included for the father in the same terms as for the mother so as to make it possible for both parents to have the successive, shared enjoyment thereof.

Paternity leave for the birth, foster care or adoption of a child continues to be of the same length, and the lengthening planned to be made has not as yet been carried out due to the current economic context, according to the information provided by the competent Administration.

The Ombudsman put forth a recommendation for the homecare of a minor affected by a serious illness other than cancer but which requires direct, permanent, long-term care. The Office of the Secretary of State of Public Administrations confirmed acceptance thereof, but the

Ombudsman has set a new process into motion given that some complaints have revealed that a serious illness has not been made equivalent to cancer for the purpose of granting leave.

Pensions and benefits

The Ombudsman considers the civil service personnel included under the Pensioner Regimen to be in a discriminatory situation in comparison to the personnel enrolled under the General Social Security Regimen in those cases in which the situation of active service extends beyond the ordinary age of retirement as a result of their not being entitled to certain incentives.

With regard to healthcare in cases of emergency, those pertaining to the General Mutual Society for State Civil Servants (MUFACE) are often sent to a public healthcare center which has no arrangement established with MUFACE, as a result of which they have to pay the expenses first

and then go through the procedure to be refunded the amount paid, which, in most cases, is denied by the mutual society. For the time being, the mutual society is not offering any specific solutions for this problem.

Harassment at the workplace

Workers from the public sector have often reported to this Institution to be suffering situations of harassment at the workplaces and that their superiors are not providing a response or not investigating. The decision was made to set an ex-officio investigation into motion for the purpose of ascertaining the mechanisms and protocols set out for preventing and detecting such situations, as well as the details regarding the actual incidence of this problem within the realm of the personnel serving all of the Autonomous Communities and the Central Government Administration. The details compiled shall be made known to Spanish Parliament in the upcoming report.

Healthcare and Social Policy

The Administration is incorporating recommendations from the Spanish Ombudsman into the new phase of the Suppliers Plan

Some of the most outstanding ex-officio investigations conducted by the Ombudsman include those set into motion for evaluating the possible existence of a food shortage among children and the investigations gotten under way for ascertaining the effects of the public administrations being in arrears in making their payments. The Ombudsman put forth a recommendation to the Administration to place priority on meeting the social welfare expenses and paying the entities which provide social services, focusing particularly on health care, education and the social services.

HEALTH CARE

Health Care in the National Health System

Access to health care on the part of those immigrants who have not been granted a permit to reside in Spain has given rise to investigations. Some Autonomous Communities have gone by the strict terms of Royal Decree-Law 16/2012 which solely makes provision for care for children in cases of emergency and care for pregnant women. The general solution proposed by the Ministry of Health is the signing of a special health care agreement, which is not a very feasible solution for economic reasons. The Ombudsman recommended the total or partial exemption from the economic consideration, and that care continue to be provided for the chronically or seriously ill. This recommendation was not accepted, given that it is anticipated to provide care solely if a public health problem is involved.

Patient autonomy, information and health care documentation

Complaints have been lodged by some patients who consider it an invasion of their privacy to be attended by professionals in training, most complaints however having had to do with access to medical records and documentation, delays for getting a second clinical opinion, delays in transferring documentation and also computer errors.

Benefit planning

The desire to incorporate scientific advancements, the fact of finding substantial differences to exist in the portfolio of services from one Autonomous Community to another and the need of promoting coordinating mechanisms are the underlying issues of most of the complaints under this heading.

The recommendations as the common services portfolio including both pre-implantation genetic diagnosis for those persons who may pass on certain diseases to their descendants and population screening for the early detection of colorectal cancer have met with acceptance.

In the Autonomous Community of Valencia, couples who already had a biological child were found to be excluded from the use of assisted reproduction techniques, this Institution currently awaiting a reply rising above the possibility of establishing a precedence of primary over secondary sterility. In the Autonomous Community of Madrid, following the intervention of the Ombudsman, care has been achieved for children with accidental brain damage at an ideal center operating under the Madrid Health Service.

Waiting lists

Waiting lists are one of the main causes of citizen dissatisfaction. Cases of delays of up to two years for surgical procedures and of up to one year in external consultations or diagnostic tests have been found to exist. The number of patients on waiting lists and the delay in their care being provided lead the Ombudsman to put forth a recommendation for measures to be taken for urgently reducing the list in the Leon Hospital Complex Cardiac Surgery Unit, which has been accepted and put into practice.

Measures at the primary care level

The elimination or shortening of hours of the Continuous Care Points has given rise to numerous complaints, others being due to problems accessing the care, the centers being inadequate or the cutbacks in personnel and number of hours during which service is provided. A ruling by the Higher Court of Justice revoked the order eliminating the Continuous Care Points in the Autonomous Community of Castile-La Mancha, different measures having been set out in other cases in lieu of this service.

Other problems have been mentioned, such as the health care for students who have moved to the Autonomous Community of Catalonia during the school year, to whom no health care center is assigned due to their being beneficiaries of insured individuals who are residents of other territorial realms.

Measures at the primary care level

Regarding patient mobility, a solution has successfully been provided to problems regarding residents of areas on the borderlines between Autonomous Communities so that they will be provided with care by the hospital nearest to them. A study has also been made of problems of patient referrals to national reference centers. Apart therefrom, the Madrid Health Service accepted the recommendation of facilitating the accompanying process in the hospital emergency services of patients who require special protection.

Especially worthy of note concerning the organization and functioning of the centers is the request for the filing of an appeal on the grounds of unconstitutionality for the externalization of the management of 6 hospitals and 27 healthcare centers within the Madrid Health Service. The Ombudsman did not find any reasons for filing said appeal however did spread upon the record the need of assuring the plurality among the service providers, of guaranteeing the equivalence of the spending per patient, of reinforcing the rights of the users and that the professional be able to state their criterion concerning the advisability of referring a patient to a certain service in particular. At the closing of this report, the Autonomous Community Administration has announced its abandoning the project of privatizing the management.

Patient safety

Health care quality requires factors including developing systematic, effective processes for taking action in response to patient complaints reporting safety-related incidents, as well as generating sufficient information on these problems to set out adequate preventive planning.

This Institution has also put under investigation errors in diagnosis, surgical procedures performed following delay, absence of protocols guaranteeing patient referral in the event of need, delays in medical transport and the slow pace with which cases of patrimonial liability on the part of the Administration are processed.

Mental health

The scarcity of specialized resources in mental health is chronic and, year after year, the Ombudsman

reiterates the need of regulating the specialty of childhood and adolescent psychiatry. Reiterated focus has also been placed on coordination among the social services and health care services being essential, especially in clinical cases involving both substance abuse and mental health, and persons in situations of social exclusion.

Pharmaceutical benefits, medicine and pharmacy control, pharmaceutical copay

Complaints have been lodged regarding the new model of drug copay, recommendations having been put forth concerning exemptions for persons with disabilities, low incomes or no income at all who file joint income tax returns, given that the combined income is attributed to each individual taxpayer.

There are also complaints requesting that the assigned drug contribution rate be corrected due to delay in the reimbursements to pensioners, and both citizens and Autonomous Community defenders put forth their opposition to the implementation of copay to the drugs dispensed from hospital pharmacies.

This Institution considered the problem not to lie so much in said decision – which came to set limits on contributing for generally very expensive medicines-, as the fact of an attempt being made to set up copay within the hospital pharmacy realm, the need for which is not in keeping with the reasons conventionally put forth in favor of this measure, basically to prevent inappropriate or abusive uses.

Hence, the Ministry of Health was requested to furnish information regarding whether any evaluation has been made as to the cost-benefit analysis of implementing this copay system. The official response, upholding the pertinence of this measure, is currently under ongoing evaluation at the closing of this report. Certain medicines being excluded from public funding has also been a source of complaint due to the decision to exclude them and as a result of having undergone remarkable rises in their prices since the exclusion.

Regarding medical transport, there are complaints concerning refusals, inadequate care, delays in the transport being provided, the planning of the service and delays in the payment of aid.

SOCIAL POLICY

This Institution's measures have been aimed at calling for the effective functioning of the social welfare systems. The situations of need and social exclusion, dependence, the problems of persons with disabilities and the matters related to minors and families have been the reasons for 90 percent of the complaints.

Some of the most outstanding ex-officio investigations undertaken by this Institution include those conducted in all of the Autonomous Communities for evaluating the possible existence of child malnutrition and what plans could be gotten under way to curtail this problem. The Ombudsman has found the Autonomous Community programs for combatting social exclusion to be positive, although being of the opinion that child nutrition should be dealt with by way of specific programs.

Special mention must also be made of the investigations opened for the purpose of ascertaining the effects of the public administrations being in arrears on making payments, which resulted in the recommendation that priority be given to meeting the social spending and the payments to the institutions providing social services, which met with acceptance of the part of the Government.

Royal Decree-Law 8/2013 of June 28th delved deeper into the ideas of these recommendations, having set out a new phase of the Supplier Plan, focusing special attention on healthcare, education and social services, and also on the elderly, young children and persons with disabilities. This Institution is conducting a follow-up of different payment procedures.

Minors

One of the Ombudsman's constant concerns is that of children in situations of risk or defenselessness, foster care, international adoptions and safeguarding young children and adolescents from certain audio-visual media contents. Two long-range investigations concerning the care provided for minors at residential facilities have been concluded. Although all of the Autonomous Communities have rolled out programs for supporting foster care, they are still as yet insufficient and have been cut back in some Autonomous Communities.

The Secretary of State for Social Services and Equality has accepted the recommendation from the Ombudsman concerning several aspects to be taken into account in the bill for updating the legislation on the protection of childhood. Hence, the Administration will be clearly and completely defining foster care, setting out a statute of rights and obligations of the foster families and will be including priority being place on the foster care of children with disabilities and other groups with difficulties gaining access to foster care.

In addition to the above, save in cases assessed with a restrictive criterion, residential foster care shall not be agreed for children younger than 3 years of age, and priority will be placed in family foster care over residential care for the children within the 3-6 age range.

Concerning international adoptions, this Institution's investigations have revolved around ascertaining whether the Spanish administrations are informing and helping the families and whether they are suitably supervising the collaborating international adoption agencies.

Regarding safeguarding minors against the mass media, the Ombudsman is currently awaiting the initial management report from the State Audio-visual Media Council, trusting that the activity thereof will be found to be effective in this realm. An investigation is currently ongoing regarding how matters involving minors are dealt with on the TVE Spanish television broadcasting system program "Entre todos". Investigations are also currently ongoing concerning the prevention of risks in the use of social networks or internet websites.

Persons with disabilities

At the 28th Coordination Conference, the ombudsmen dealt with the adaptation of the Spanish legal system to the Convention on the Rights of Persons with Disabilities. The result was set out in an ample document which will be published by the Canary Island Ombudsman, the host of this meeting.

The Ombudsman has made reference in previous reports to the incomplete regulation of the penalty regimen, having found that, beyond the regulatory deficiencies, identical situations are treated different depending on the territory where they take place.

Following different measures having been taken, the Administration is still not as yet completely enforcing full compliance with the standards regarding accessibility and requiring the adaptation of buildings. Additionally, it is not penalizing violations alleging reasons of authority and the scant degree of Autonomous Community regulation. The Government has failed to comply with the time frame for presenting affirmative action measures aimed at promoting access to employment of the persons with borderline intellectual functioning who have their situation officially recognized, although they do not have as high as a 33 percent disability, nor has it determined a minimum degree of disability for being eligible for these measures.

At the request of the Spanish Committee of Representatives of Persons with Disabilities (CERMI), investigations were gotten under way with the Secretary of State for Social Services, Equality and Employment by recommending that the necessary regulations be proceeded to be passed as soon as possible.

The difficulties of accessibility including cases such as public parking areas and the process of reserving parking places has led to measure being carried out with different municipalities.

The investigations concerning the regulation of persons who have disabilities other than being visually impaired being accompanied by canine partners are currently ongoing, given that regulations exist in some Autonomous Communities, but without being expanded upon; in others, bills are current in processing, yet others having said they will look into this matter and others not as yet even having taken this matter into consideration.

A recommendation has been put forth to the Spanish Institute for Senior Citizens and Social Services (IMSERSO), to which a response has as yet to be provided, in order for free access to be provided to the information and new technologies on the part of persons residing at senior citizen living facilities.

Senior citizen care

Senior citizen admissions to living facilities are often agreed to between family members and the living facility in question, limitations sometimes being imposed which would require the authorization

of the court, not solely that of the guardian. The recommendation was therefore put forth as to those responsible for the senior citizen facilities notifying the Attorney General's Office whenever the residents become impaired following their voluntary admission to the facility, so that the pertinent protection measures will be taken. The recommendation was fully accepted.

Another recommendation has also been taken as to a protocol being set out covering the measures which must be adopted with residents whose behavior or disorders entail indications as to a risk existing for themselves or for others.

Dependence

From the complaints lodged, citizens are found to perceive a deterioration in the System for Autonomy and for Dependency Care (SAAD), there being delays in the processing of cases, in the assessment and recognition of the degree of dependency, the amount of the benefits is being reduced and differences continue to exist from one Autonomous Community to another with regard to the degree of protection provided.

In some Autonomous Communities, particularly with regard to the economic benefits for homecare, delays have arisen due to the lack of funds to pay them. The Ombudsman has warned that failure to pay these benefits may seriously affect the family's economic capacity or involve the abandonment of the service in view of it being impossible for them to take the cost thereof upon themselves on the basis of their own individual means.

In some Autonomous Communities, the amount resulting from applying the new Autonomous Community regulation is remarkably lower, and the participation of the users in paying for the benefits gives rise to remarkable differences depending on the location where they reside. And if the person in a situation of dependency moves and changes his/her permanent residence from one Autonomous Community to another, distortions are created when receiving the benefits, given that, although time periods exist for the revision of the Individual Care Programs by the Administration of the new location, this revision is not made within the stipulated time period.

The case files for reviewing the degree of personal autonomy have given rise to numerous complaints

due to delays and due to a lesser than previously-determined degree of dependency being recognized, which has given rise to the request for the refund of amounts formerly collected.

This Institution also conveyed to the Institute for Senior Citizens and Social Services (IMSERSO) that it is not logical to deprive a person who has a disability and who is in a situation of dependence of the benefit with which to be able to pay for his/her upkeep and clothing due to their having been granted aid for homecare. Although the Institute for Senior Citizens and Social Services (IMSERSO) has not changed its interpretation of the rule, the Ombudsman has been repeatedly putting forth that the benefits granted to the persons in a situation of dependence must not rule them out from being granted those for which provision is made under the law of social integration of the handicapped (LISMI).

Large families

Complaints have been filed calling for the amendment of the Law governing large families so as to broaden the cases of recognition as such. Problems have been detected in the process for issuing and renewing the large family cards due to a lack of material means and personnel. Some positive aspects worthy of mention are the modification of the limit on income for collecting an allowance, which will now be calculated based on the number of dependent children, and the protection being expanded from the unmarried children younger than 21 years of age up to 26 years of age while they continue studying.

Persons in a situation of poverty and social exclusion

The largest number of complaints have been due to the processing of the minimum income benefit. In the Autonomous Community of Madrid, there were more than 170 complaints reporting delays averaging longer than a year. In other Autonomous Communities, the most frequent problems are the rise in the number of applications, the budget restrictions and the insufficient human resources for carrying out the processing. In the Autonomous Community of Valencia, a change was made in the regulation, setting the date on which the decision

is issued instead of the date on which application is filed as the effective date, which gave rise to complaints. A reminder of legal duties has been put forth to several Autonomous Communities concerning providing a decision regarding the applications in due time and form.

Child nutrition

The economic crisis is having a widespread, long-lasting effect on family economies. Therefore, ex-officio investigations were gotten under way with all of the Autonomous Communities and Autonomous Cities for the purpose of looking into the impact of poverty on the nutrition of children and to ascertain what specific interventions might be in the process of being carried out or being planned in order to guarantee the basic food intake of those children living in homes currently experiencing material deprivation. This Institution has been especially concerned regarding the school dining halls being closed during school vacation time possibility making already precarious situations even worse.

From the responses provided, it is inferred that some Autonomous Communities are maintaining specific programs, others having adopted measures or were in the process of looking into doing so, other having stated not having detected any engrained problem and that the general network of coverage based on social integration incomes and emergency aid is sufficient, yet another, Castile-La Mancha having established a direct connection with situations of risk or defenselessness which would give rise to the intervention of the juvenile protection authorities.

The Ombudsman is of the opinion that child nutrition must be dealt with by way of specific programs so as to prevent effects damaging to the physical and intellectual development of these children, given that the social integration income payments undergo delays and do not make it to all those who are in need thereof. This social integration income and other general types of aid are benefits for guaranteeing the family unit as a whole and do not assure that priority will be given to the children's food.

Priority can be expected to be given to this matter within the framework of the Ministry of Health and Social Services 2013-2016 National Plan for Action for Social Inclusion.

Social Security and Employment

More than 82 percent of the Social Security-related complaints lodged with this Institution have to do with disagreement concerning the benefits, especially due to the conditions of access, duration, regime of incompatibilities or their monetary amount. This percentage amounts to nearly 95% if the complaints regarding the social security contributions and collection of contributions are added.

The Administration's response times for providing replies to the requests for information placed by the Ombudsman are, in general, appropriate, the recognition of errors usually meaning their being corrected in full or in part.

Investigations were gotten under way concerning the security of the electronic data-sending system, the system for automatically answering requests for personal employment record reports and on other data processing dysfunctions. In response to the suggestion of lengthening the amount of time between the formality for the freezing of assets and the respective auctions being held, the National Social Security Treasury replied by stating that a greater deal of flexibility has been implemented in the granting of extensions under subsequently negative circumstances.

Benefits

As previously mentioned, most of the complaints in this regard have to do with disagreement with the benefits.

One of the recommendations which this Institution has put forth to the National Social Security Institute has been that of considering the situation of disability to continue to exist until the interested party is notified of the decision in favor of medical release, because cases have arisen of irregularities in sending the notification or delays in communications.

Other complaints have been those having to do with maternity benefits, family member pensions, widow/widower pensions, retirement pensions and non-contributory disability pensions. Regarding the automatic revaluation of the public pensions, this Institution received 200,000 signatures petitioning the Ombudsman to press for a constitutional reform definitively safeguarding the public nature of the

pensions and their automatic revaluation. These petitions were brought before Spanish Parliament.

Requests were received asking that an appeal be filed on the grounds of unconstitutionality against Royal Decree-Law 28/2012 of November 30th, which was not filed, on it having been considered that it had already been filed by members of Parliament from seven political groups. Nevertheless, the Ombudsman put forth a recommendation to the Government that it undertake the commitment of compensating the loss of buying power for those pensions whenever it were to be financially possible.

Unemployment

Complaints were lodged because the State Public Employment Service (SEPE) appointment-scheduling application was not allowing changes. That Service reported the problem having been solved, making it possible to cancel the appointment given and to request another appointment. Other complaints had to do with the difficulties involved in lodging complaints on the website and for attaching documentation to the applications.

Unemployment benefit management has also given rise to complaints, quite a few due to incidents in the notifications, to which a solution has been provided when the management was turned over to the Postal System. In the case of complaints due to suspensions or refusals, the State Public Employment Service (SEPE) has reviewed different cases following the measures taken by the Ombudsman and has recognized the benefits.

Regarding the complaints due to delays in the processing of benefits related to a labor force adjustment plan, the investigations showed there to have been delays of around five months. A recommendation was therefore put forth for adopting additional measures for shortening processing times, and a reminder of legal duties was also put forth as to the obligation of providing a decision regarding the applications within the legally appointed time frame.

The problems due to beneficiaries of unemployment benefits traveling outside of the country have also given rise to complaints, to which a solution was provided after having requested information from the State Public Employment Service (SEPE) as to whether the doctrine established by the Supreme

Court Social Law Chamber in two rulings in October 2012 had been applied.

Benefits being denied due to the cessation of activities of self-employed workers has given rise to numerous complaints. The Ombudsman has requested information from the Directorate General of Social Security Planning concerning the possibility of setting out a regulatory standard clarifying and simplifying the requirements for considering the cessation of activity to be substantiated. The response received reported studies being commenced for the amendment of the legal regime, this investigation therefore currently being ongoing until the scope of the amendment being carried out is known.

Aliens requesting unemployment benefits have had problems substantiating the lack of income of their spouse and children living outside of Spain either due to the Administration considering the income of the family unit to exceed the legal limit or due to errors in processing

As far as the Active Integration Income is concerned, the Occupational Requalification Program (Prepara Plan) has given rise to complaints, some of the investigations regarding which are currently ongoing.

International Social Security

A major number of complaints are still being lodged concerning deficiencies and delays in the processing of pensions under the protection of European Union regulations and bilateral agreements. Special mention may be made in this regard of delays of longer than two years in the revision of a retirement pension effective date and of three years for recognizing a disability benefit in France.

Other cases concern a pension granted in 2003 without any payments being made until 2012 in Venezuela; no response being given to a request for information to Guinea; the refusal of Colombian authorities to certify contributions paid into the system and the problem already dealt with in the last annual report, of a group of seamen working on ships registered in Norway to whom Norway provides no coverage under its Social Security system as a result of their not having been residents of Norway. The follow-up on the lengthy steps taken by the Spanish authorities for the purpose of providing a solution to these cases is currently ongoing.

Employment

The complaints lodged related to employment are a reflection of the economic context of curtailment of the public deficit and lack of creation of employment. Many of the complaints have to do with the unemployment situation and the realm of private employer-employee relations, these being matters over which the Ombudsman Institution has no authority for taking action.

This does not preclude expressing this Institution's solidarity with those who are finding themselves in this situation and urging the public authorities to make a major effort with measures favoring the creation of employment and meeting the most basic needs of those who are unable to find employment.

Concerning the active employment policies, this Institution suggests more controls, thorough audits and a strict assessment of the results of the programs and activities stemming from the same.

A great number of complaints have to do with the difficulties involved in collecting public aid and subsidies granted in support of vocational training or for the promotion of self-employment due to the lack of budget credit. An outstandingly large number of complaints have been lodged by persons who have lost their jobs due to the situation of bankruptcy of their companies and who are waiting for the Wage Guarantee Fund (FOGASA) to pay the benefits to which they are entitled.

The State Public Employment Service electronic assess system has also had dysfunctions and given rise to complaints, as also have the announcements of public employment job openings in which age limits are set, which is classified as a major violation, or the requirement of having disability certification. Regarding this group, this Institution has put for the a reminder to the Administration as to the pressing need of reviewing the job listing for the inclusion of the persons with disabilities by way of the modalities of protected employment.

The unemployed workers who go into business as self-employed workers financed with employment funds within a national scope managed by the Autonomous Communities complained due to the delays and even rejections regarding applications – filed three years before- due to lack of available

budget funds. The exhaustion of the budget credit also gave rise to delays or complete elimination of other aid.

Concessionaire company compliance with their employer-employee obligations

The company holding the concessions for the integral management of the public cleaning and upkeep service for the public spaces and garden areas of the Municipal Government of Madrid has not approved the subrogation of a large number of workers, the Municipal Government of Madrid having considered itself to have nothing to do with this dispute due to its being of the understanding that it is a dispute circumscribed within the relations between the company holding the concession and its workers.

This Institution has reminded the Municipal Government of Madrid that the contracting administration is under the obligation of supervising the performance of the contract in this aspect and of setting out the necessary mechanisms for due compliance therewith. Similarly, it has put forth the reminder that the Administration can include clauses in the administrative conditions for guaranteeing job stability and guarantees for compliance therewith and stipulating penalties in the event of breach and even attributing these conditions with being contractual obligations of an essential nature, classifying the breach thereof as due cause for cancellation of the contract.

Spanish Airports and Air Navigation (AENA) upheld a similar criterion in the concession of certain works and services at the Adolfo Suárez Madrid-Barajas Airport. The company finally accepted the subrogation of the workers in the end, AENA's hands-off position of keeping out of the dispute however having been cause for these same points of law to have been put forth thereto.

Vocational Training

Most of the complaints lodged concerning this subject had to do with the unemployed persons disagreeing with the criteria for selection for taking training courses for employment and delays and dysfunctions in the processing of respective aid for transportation, board and lodging for taking these courses.

Some complaints lodged make reference to the Autonomous Communities failing to open procedures for obtaining the occupational qualification certificate official substantiating occupational qualification by means of the evaluation and accreditation of the occupational skills acquired through on-the-job work experience or through non-formal training channels. Information has been requested from the competent Autonomous Community Departments.

Wage Guarantee Fund (FOGASA)

The numerous complaints lodged show that the, far from the delays in this agency having been shortened, they have become longer. The Ombudsman therefore opened an ex-officio investigation for the purpose of ascertaining the personal and material needs indispensable for the suitable functioning thereof, given that, in the current economic crisis and unemployment-related context, collecting the benefits from the Wage Guarantee Fund (GOGASA) – to which those affected are entitled – can prevent them from reaching the threshold of poverty and the risk of social exclusion.

From the report received from the Wage Guarantee Fund (FOGASA), it is inferred that the backlog of cases is due to the rise in the number of applications for benefits as a result of the high degree of destruction of employment in recent years, which has nearly quadrupled since 2008. They also allege insufficient staffing, given that the number of employees has not increased to deal with this large volume of work. Procedures ineffective for dealing with the management have also been found to exist in some provincial divisions.

As a tentative solution, a public enterprise will be managing case files in those provinces showing the longest delays. A new procedure manual is currently being finalized for unifying and simplifying the management nationwide and recognizing the need of providing a solution to the staffing shortage.

The Ombudsman Institution has offered its collaboration for taking whatever action is necessary before the ministerial departments for bringing about measures for the proper functioning thereof.

Child labor

Within the framework of the investigations conducted by the Ombudsman Institution as a member of the Ibero-American Federation of Ombudsmen (FIO) for the purpose of working in coordination with one another toward the protection and promotion of the rights of children and adolescents, the Ombudsman Institution opened an ex-officio investigation with the Directorate General of the Labor Inspectorate and Social Security. Hence, it has requested information on the inspection measures carried out concerning this subject, the plans currently in force for the eradication of child labor in Spain and the statistics available for the 2007-2013 period.

The data furnished by said Directorate General does not afford the possibility of drawing any conclusions concerning the incidence of child labor in Spain beyond substantiating a small number of annual inspection measures and a low percentage of violations and penalties, a percentage which has continued to show a downward trend.

A suitable processing of this data will afford a better knowledge of child labor in Spain and make it possible to quantify the extent thereof. The Administration will be able to set out criteria for taking action making the prevention and correction of whatever violation may take place regarding this subject more highly effective.

It seems essential to make a distinction between the cases of breach of the working condition of minors under 18 years of age and the cases detected of minors under 16 years of age working by classifying the latter in terms of their ages. Mention may be made of other criteria which may also be of interest, such as the analysis of the data broken down by genders and the sector of activity in which the child has been detected as working.

This Institution shall be putting forth this suggestion to the Directorate General of the Labor Inspectorate and Social Security.

On this same subject, information has also been requested from this same agency concerning the provisions in order for Spain to ratify International Labor Organization Convention No. 189 on decent work for domestic workers, the articles of which encompass rules regarding child labor.

Housing

“Vacant Government-Subsidized Housing” study recommendations well taken

This Institution published the “Vacant Government-Subsidized Housing” study for the purpose of ascertaining the number of housing units of this type that were available yet uninhabited. The recommendations thereof have been included in the 2013-2016 State Housing Plan. The elimination or default on payment of public housing aid as well as the delay in the payment of Autonomous Community subsidies already recognized gave rise to numerous complaints in 2012. The sale of government-subsidized housing to private companies has now become a new cause for complaints.

Housing plans

This Institution received numerous complaints in 2013 as a result of the elimination of the state government aid to housing, which came about firstly due to Royal Decree-Law 20/2012 on measures for guaranteeing budget stability and promoting competitiveness and subsequently via Law 4/2013 on measures for the flexibilization and promotion of the housing rental market.

Although the wording of Decree-Law 20/2012 Article 35 referred solely to the Plan in force at that point in time (2009-2012 Plan), the Ministry of Public Works interpreted it as being applicable to all of the aid to housing, including that which had already been recognized under earlier Plans. This gave rise to numerous complaints from citizens, who were finding the aid they had been granted years ago to be retroactively eliminated. The extensions on the subsidizing of loans, granted under the protection of the 2005-2008 Plan were those most affected. Investigations were gotten under way with the Ministry of Public Works, which

based itself on the interpretation of the Article on the part of the Attorney General's Office.

Following an analysis thereof, the Ombudsman put forth recommendation to the Ministry of Public Works (Resolution 158/2013), in which it suggested modifying the criterion which had been employed up to that point in time and limiting the elimination of the aid to the Plan then in force (2009-2012). The Ministry however rejected the recommendations, the investigations therefore having been closed after warning the Ministry as to the consequences involved for the citizenry.

The elimination of the aid to the housing cooperatives also gave rise to recommendations having been put forth to the Ministry of Public Works as to its considering the possibility of conducting a study in conjunction with the Confederation of Housing Cooperatives in Spain for the purpose of determining a transitory period of aid.

In January 2013, in view of the fact of more than 7,500 applications for assistance from the 2005-2008

Housing Plan having been pending in the Autonomous Community of Andalusia, a reminder of legal duties was put forth to the Autonomous Community of Andalusia Department of Public Works. In short, this reminder was put forth to remind this Department that it must not take any further applications for housing assistance due to the amount allocated in the budget for the payment thereof having been fully expended, and that those left remaining must be formally rejected, due to no State or Autonomous Community funding being available.

Regarding the Autonomous Community plans, several recommendations were put forth to the Autonomous Community of Madrid Directorate General of Housing and Rehabilitation due to the effects of the elimination of the housing assistance check on the applications being processed at the time. This Institution has an ex-officio investigation currently under way after having received complaints from citizens saying that if said Directorate had processed and issued a decision on their respective cases within the appointed time frame (six months), their entitlement to the housing assistance check, for which they had applied prior to its having been eliminated, would have been recognized. A reply is currently being awaited from the Autonomous Community of Madrid.

There is also an investigation currently under way due to the delay in the payments of the housing assistance check in the Autonomous Community of Valencia and the criteria for determining the priority of the payments. Information has been requested as to the number of cases recognized and pending payment, the amounts due and payable, the provisions of funds and the scheduling and criteria for determining the payment thereof.

The Autonomous Community of Catalonia Government replied that there are current some 14,000 cases pending processing, totaling an amount of nearly 140 million euros. Approximately 18.71% of the aid already recognized is still as yet to be paid.

The issue of advance payments also gave rise to problems for citizens. Such is the case of those who have been granted rental payment assistance currently in effect which the Autonomous Community Administration has not paid. The interested parties went to a bank to apply for a loan under the protection of the decision in favor of recognition of this assistance, but it has still as yet not been paid, and those involved are in debt to the banking institution.

Complaints have frequently been lodged due to the delay in the payment of Autonomous Community subsidies which have already been recognized. In most cases, the administration replies that this is due to the lack of cash available from the budget, as a result of which this Institution has suggested that the money released from the Autonomous Community budgets as a result of the Ministry of Finance mechanism for the payment of suppliers be used. This has been the case of the Autonomous Communities of Valencia, Murcia, Castile-La Mancha and the Canary Islands.

Award of government-subsidized housing

This Institution also took an interest in issued concerning the application for and awarding of government-subsidized housing.

Regarding the public records of applicants for government-subsidized housing, a recommendation was put forth to the Autonomous Community of Madrid on October 19, 2011 as to setting up the Public Register of Applicants for Government-Subsidized Housing. The fact of no such register existing has a negative repercussion on the housing applicants not knowing where they stand in the order or priority or whether they are moving up on the list of possible awardees from year to year. This is especially serious with regard to applications for housing due to situations of special need, having been the reason for two suggestions having been put forth in 2012 to the Autonomous Community of Madrid Directorate General of Housing and Rehabilitation as to activating the availability of housing for special need quotas, which were not accepted. A similar issue regarding access to housing in cases of special need gave rise to a recommendation to the Autonomous City of Ceuta Department of Public Works as to its modifying the regulations regarding the quotas. The Administration has not as yet provided a reply.

Complaints also dealing with this same issue have led to the suggestion being put forth to the Madrid Housing Institute and to the Autonomous Community of Madrid Directorate General of Housing and Rehabilitation as to including those applicants or awardees of housing who are in a situation of major precariousness in the Social Integration Housing Program being carried out by the Directorate General in collaboration with the "Cáritas" Organization.

In December 2012, a recommendation was put forth to the Autonomous Community of Madrid Directorate General of Housing and Rehabilitation as to the reasons for ruling out applications for the rental with option to buy of government-subsidized housing for young people also including having occupied or currently occupying housing without being legally entitled to do so, save voluntary abandonment or, that the inclusion of some affirmative action measure be urged for those applicants who have been illegal occupants of government-subsidized housing. The administration accepted this recommendation in 2013.

Modification in the government-subsidized housing rent

This Institution has analyzed two types of problems concerning the rental of government-subsidized housing, more specifically, concerning the applications for lowering rent. In some cases, a certain degree of discretion has been found to exist on the part of the Administration when making the decision as to lowering rents whenever there is not any special legal regime in place governing this issue.

Such is the case of the investigations conducted with the Autonomous Community of the Balearic Island Housing Institute Administration, which, after studying each individual case in particular, generally applies a reduction of up to 30% in the rent of the tenants who are up to date regarding their rent payment or undertake the commitment of paying off their debt within four months; or with the Municipal Housing and Land Enterprise of Madrid, which, by means of a Resolution of the Board of Directors, adopted the decision of applying a 10% reduction on the rent of the housing units to be awarded. In both cases, no legal references are made, which points to discretion beyond control.

An analysis has also been made as to the scope of the payment commitments offered by the Autonomous Community of Madrid Housing Institute (IVIMA) in the cases of problems for paying the rent stemming from subsequent unanticipated situations of unemployment, above all long-term unemployment and, in general, in the cases of economic need.

These complaints indicate that the Autonomous Community of Madrid rent reduction system is not effective when the applicant's economic situation is highly precarious. The result is that the lowering of

the rent is offered as a formality, although the person awarded the housing has no actual possibility of making payment.

Government-subsidized housing sold to private entities

Government-subsidized housing being sold to private enterprises is one of this Institution's concerns and a new cause of complaint from citizens. Those lodging complaints in this regard put forth two reasons: the tenants, who are worried although the Autonomous Community Administration is explaining to them that their situation has not undergone any change; and those who have an option to buy, who argue not having had any pre-emptive right.

It is true that the urban leasing law does not recognize the pre-emptive right of purchase if what is being sold is the entire building, but it must be taken differently for the tenant that the owner be a public Institution or a private enterprise.

It will be in 2014 when these complaints are dealt with, examining the pre-emptive right between the tenant and the new owner company, the possible detriments, the selling prices, etc. The new local legislation (Law 27/2013 of December 27th on the rationalization and sustainability of the local administration) allows the municipalities to allocate their public real-estate assets to reducing the Municipal Government's commercial and financial debt.

In August 2013, an investigation was gotten under way with the Autonomous Community of Madrid Department of Transport, Infrastructures and Housing in order to ascertain how a process of disposal is going to be carried out on 32 Madrid Housing Institute (IVIMA) housing developments which currently have rent-paying tenants, some of whom have an option to buy. The conditions and an evolution of the situation in which said tenants will be finding themselves were requested.

The Department replied that the disposal of these developments has no bearing on the legal status of the tenants, who will continue to have the same rights and obligations. The Department also indicated that it is not befitting under law to offer them the pre-emptive right, as this disposal was not of any individual housing units, but rather of entire buildings or developments.

This case is still ongoing.

Default on payment of owners' association fees of the apartments owned by the government agency

Several complaints were also lodged due to the default on payment of the owners' association fees for the apartments owned by the Madrid Housing Institute (IVIMA). Commencing as of 2012, this Institution has conducted several investigations regarding this matter. Thus, it put forth a suggestion to the Madrid Housing Institute as to it expeditiously processing matters including the outstanding amounts owed for the vacant housing units under their ownership and those of their tenants in arrears. The Madrid Housing Institute formally accepted some of the suggestions. In November 2012, the Madrid Housing Institute formally accepted some of the suggestions.

In June 2012, an investigation was gotten under way with the Autonomous Community of Madrid Directorate General of Housing and Rehabilitation for the purpose of knowing how the system for covering defaults on payment works within the framework of what is referred to as the "Autonomous Community of Madrid Renting Plan". The managing concerns apparently want nothing to do with the Plan. The response from the Autonomous Community of Madrid is currently pending.

Basic Emancipation Income

In 2013, the number of complaints involving this subject decreased compared to previous years, as could be expected following this income having been eliminated, solely those incomes already recognized now left remaining. Most of the new complaints lodged had to do with cases involving some sort of incident caused by the State or Autonomous Community Administration.

A major number of complaints involved the problems in the applications filed by the interested parties within the stipulated time frame but which were nevertheless not accepted into the automatic payment system. There are several Autonomous Communities involved: Catalonia, Andalusia and Valencia. This is a matter or computer-related errors or problems.

The 2013-2016 State Housing Plan, approved by Royal Decree 233/2013 of April 5th, makes it possible to employ part of the budget resources allocated to the Plan for putting computer systems which will facilitating the exchange of data and information

between the Ministry of Public Works and the Autonomous Communities.

Vacant Government-Subsidized Housing

The "Vacant Government-Subsidized Housing" study was presented to Spanish Parliament on March 21, 2013. It was and still is necessary to know the number of vacant government-subsidized housing units, the causes, the condition of upkeep of the residential buildings, as well as the organization of the material and human means with which they are being managed and what difficulties arise for an efficient action.

The study has been well-accepted, and the recommendations have met with acceptance with regard to the substantial part thereof in practically all cases. The Ministry of Public Works has also assured having taken the Ombudsman's recommendations in the preparation and subsequent approval by the Council of Ministers of the new 2013-2016 State Housing and Rehabilitation Plan. Specifically, it has stressed the support to the government-subsidized housing under rental and the possibility of reclassifying government-subsidized housing units currently for sale so as to put them up for rent.

Thus, the suggestions put forth in the study are serving as reference points for the administrations when reviewing, questioning and even asserting themselves regarding problems in the current government-subsidized housing management model.

There were two outstanding conclusions reached in this study:

- The advisability of availing of a General Government-Subsidized Housing Register including data furnished by the Autonomous Communities and major cities, these being items of data which should be homogeneous so as to make assessments on a nationwide scale possible.
- The advisability of the entire stock of vacant housing units being put up for rent under conditions allowing individuals and families to gain access thereto without overwhelming difficulties, for which purpose the study provided some indicators of possible rental valuations.

The replies received from the administrations revolved precisely around these two suggestions.

Economy and Finance

The investigations concerning preferred shares, mortgage debtors and personal insolvency were the focal points of this Institution's activity

Once again this year, a large part of the complaints regarding economic matters lodged with the Ombudsman Institution were due to the scant resources and difficulties citizens are having for meeting their obligations. This Institution published three studies – on preferred shares, on mortgage debtors and on personal insolvency – which take in a large part of the work done in 2013. The Tax Administration has also been requested to take the Ombudsman's recommendations into account in the upcoming tax reform.

ECONOMIC ACTIVITY

Investigations stemming from the economic situation

The main investigations are included in the studies prepared by the Institution in 2013:

- Update to the study “Economic Crisis and Mortgage Debtors: Actions and Recommendations by the Ombudsman” (April 2013).
- “Economic Crisis and Personal Insolvency: Actions and Recommendations by the Ombudsman” (November 2013).

The Ombudsman Institution stressed the need of carrying out an in-depth reform of the regulation of the situation of the mortgage debtors as a whole. It also requested that the powers of the judges be increased in accordance with the substance of a European Union (EU) Court of Justice ruling and with the recommendations of this

Institution. More specifically, this Institution advocated broadening the scope of action of justice so that there will be a “greater degree of flexibility when facilitating agreements between creditors and debtors”.

Similarly, this Institution put forth several recommendations for an independent insolvency proceeding or a second chance law to be set out in the Spanish legal system so that private citizens and consumers in good faith who are overwhelmingly in debt can piece their lives back together and avoid social exclusion. At the closing of this annual report, no response has been received to these recommendations.

Numerous complaints were also lodged last year due to the marketing of complex financial products. Such is the case of the multi-currency mortgages and the preferred stocks.

As far as the mortgages in currencies other than the euro is concerned, changes have now been made in the legislation as to what information the institutions must provide to their customers, but those who signed

their contracts beforehand are complaining that they are suffering the consequences of not knowing the conditions they subscribed, which entail the initial capital requested having increased, even doubled in many cases, such that, had they known such a circumstance, they would not have subscribed them.

As far as the preferred stocks are concerned, the Ombudsman prepared a study in March 2013 which included the main actions carried out regarding this issue. This Institution put forth recommendations to the Bank of Spain, to the Spanish National Stock Market Commission (CNMV) and to the Office of the Secretary of State for Economy and Business Support. The Financial Product Transparency Sub-commission of the Congress Commission for the Economy has taken up nearly all of the recommendations made. Therefore, the position of the Spanish National Stock Market Commission and of the Ministry of the Economy concerning the suggestions from the sub-commission has been requested.

The Ombudsman has also received complaints related to the elimination of the Mortgage Loan Reference Index (IRPH) to which many mortgages were referenced. This Institution put forth two recommendations to the Bank of Spain and to the Office of the Secretary of State for Economy and Business Support. Therein, the Ombudsman requested that the entities furnish their customers with better information concerning the application of the new reference index and facilitate the possibility of a renegotiation of the contracts in force in the event that this enforcement might mean a risk of delay in the performance thereof for the mortgage debtors. No response has as yet been received to these recommendations.

Other of this Institution's investigations had to do with the loans from Spain's Official Credit Institute (ICO). Two matters were addressed concerning this matter:

1. The maturity of the credits of the Brokerage Line for those affected by the Forum Filatélico, S.A. and Afinsa, S.A. issue gave rise, for the purpose of maintaining the support of those affected, to the Government giving the Official Credit Institute (ICO) instruction to extend the repayment period by two more years and to modify certain conditions of this line of credit.

Numerous citizens were however refused said extension on the part of the financial institutions having subscribed to this line of credit.

This Institution put forth a recommendation as to the Official Credit Institute (ICO) directly granting those affected the extension of the Line of advance payments on account whenever they have found their request to have been refused by the different financial institutions subscribed.

2. Numerous students who had been granted 2010-2011 Official Credit Institute (ICO)-University Income loans cannot repay the monthly amounts given that they are unemployed.

Both the Official Credit Institute (ICO) and the Ministry of Education, Culture and Sport are planning to modify Ministry of Education Order 3248/2010 of December 17th governing the conditions of the loans of this line of credit so that, just as in previous years, those granted loans for the 2010/2011 year can request the extension of the grace period for their loans if they do not have a minimum amount of income.

Financial institutions

In 2013, as in previous years, the citizens reported the ineffectiveness of the resolutions of the Bank of Spain Market Conduct and Claims Department, given that, despite finding in favor of the customers; the financial Institutions are not rectifying their way of doing.

This Institution has found that the reports against the financial institutions on the part of the customers, even when the banking malpractice is substantiated, do not constitute grounds for instituting any penalty proceedings against any financial institution whatsoever, regardless of how serious the consequences of their conduct may be.

Therefore, on the basis of this current model, the Claims Service is not managing to provide the safeguard it is aiming to achieve for the customers, given that it is not preventing citizens from having to take recourse to judicial or arbitration proceedings in order to see their rights fulfilled or from giving up completely, considering the cost which would be involved.

The Ombudsman has carried out different measures with the Bank of Spain in cases in which this agency had come to the conclusion in its reports that the banking institutions had broken the good banking practices in order to know whether penalty proceedings are being instituted against the Institutions in question.

In 2013, citizen complaints related to the financial institution also had to do with the floor rate clauses and the commissions.

As far as the floor rate clauses are concerned, Supreme Court Ruling 241/2013 of May 9th declares the nullity thereof in the cases of lack of transparency. As a result thereof, the Ombudsman has recommended to the Bank of Spain that it give instructions so that all of the financial institutions will adapt the application of these clauses to the Supreme Court decision in the sense clarified by the Decision of June 3, 2013 and thus prevent the customers from having to take recourse to judicial proceedings.

Citizens also filed complaints reporting the increase in the banking commissions or new commissions being charged. Complaints were also lodged due to the practice of some banking Institutions of charging up to 30 euros for an overdrawn account, or 35 euros under the heading of rejected automatic payment fees on receiving in their accounts the pensions, monthly paychecks or unemployment benefits on a different date than on the date on which the bills, mortgage payments, etc. are charged. In investigation has been gotten under way conveying the problem to the Ministry of Economy, to which no response has as yet been received, for the time being.

Pension plans and Insurance Policies

The most common complaints concerning insurance policies had to do with the disputes between customers and insurance companies as to the indemnifications to which entitled for the losses, involving the rate being raised and there being delays in the coverage of the insurance. Complaints were also received due to refusal to cancel a policy engaged in the event that two months' advance notice is not given prior to the policy expiration date, due to the delay in providing a solution to the claims on the part of the Directorate General of Insurance and Pension Funds (although fewer in number than in previous years); and due to the ineffectiveness of the Claims Service, on the resolutions thereof not being binding.

As far as the pension plans are concerned, an ex-officio investigation was gotten under way in 2013 with the Ministry of Economy and Competitiveness, with the Directorate General of Insurance and Pension Funds and with the Office of the Secretary of State for Finance. In the opinion of this Institution,

the economic situation requires a boost from personal savings in order to round out the future state pensions, as well as the revision of the pension plan regulations.

Several factors are having a negative bearing on pension plans being engaged or on continuing to pay amounts into these plans periodically: the lack of ready cash, the low or even negative degree of profitability in many cases, and the high management commissions, higher than those charged for investment funds for performing a similar task. Not to mention the insecurity to which the regulatory changes which the pension plans may undergo can give rise, given the long life of this investment, especially with regard to tax-related matters.

The Directorate General of Insurance and Pension Funds has prepared a report on the degree to which the supplementary social fund has been rolled out and the measures which could be adopted for promoting its more widespread use in Spain, which the Government shall shortly be sending to the Congress of Deputies. Most of the suggestions put forth by the Ombudsman are included in the report, such as the highest commissions being lowered, greater cash flow, modification of taxation, more information and transparency and promoting financial education.

As far as pension plan taxation is concerned, the Office of the Secretary of State for Finance adds that, on July 5th last, the Council of Ministers approved an Agreement by way of which a Commission of Experts is set up for the reform of the tax system.

Therefore, in both of these initiatives, the suggestions made as to the modification of the overall regulations and of the tax regimen of the supplementary social funds as those which have been put forth from this Institution are of major importance, which must be analyzed overall in conjunction with all of the other reforms planned to be undertaken.

Electric power

The measures adopted by the Government in the electric power industry for offsetting the rate deficit have been shifted to the consumers via a rise in the price of the electric power supplied, and to the renewable energy producers – especially in the photovoltaic sector- with the reduction of the amount paid and therefore the profitability of the investments.

This institution has received complaints regarding the changes made in the standards in the regulations governing payment for photovoltaic energy, in general, on the part of small-scale producers, who, having placed themselves under the payment system set out in 2007, took the investment upon themselves by way of credits which they are now unable to repay due to the drop in the amount they are being paid.

Royal Decree-Law 14/2010 was what triggered the discontent of the investors who approached this Institution. A recommendation was put forth to what was then the Ministry of Industry, Tourism and Trade at the time, which, for the purpose of avoiding situations of uncertainty, that a clear, stable set of regulations be proceeded to be prepared for the electric power industry under special regimen. This recommendation was not accepted.

The changes made afterward by Royal Decree-Law 9/2013 eliminate the rates system and make provision for a new regimen which has given rise to the complaints of the photovoltaic sector, which is alleging legal uncertainty. The Ombudsman is currently awaiting receipt of the information requested thereby from the Ministry of Industry, Energy and Tourism Directorate General of Energy Policy and Mines and the Spanish National Market and Competition Commission.

As far as what is referred to as “backup toll” for which provision is made under Royal Decree 9/2013 is concerned, which is intended to be charged on the energy consumed instantaneously, an ex-officio investigation was gotten under way with the Ministry of Industry, Energy and Tourism Office of the Secretary of State for Energy, on considering this new “toll” to be contrary to the efforts being made for the contribution of the citizens toward cutting the electric power costs and encouraging the use of renewable energies. This Institution also considers this to be a matter of penalizing those who invested in an electric power production system for reducing household expenses, in addition to being discriminatory for the different technologies, given that it exempts the cogeneration facilities from the payment thereof until December 31, 2019.

In 2013, complaints also came in due to the electricity bill hike, which, in conjunction with the loss of purchasing power, is giving rise to bills going unpaid and suspensions of the electric power supply, which has given rise to a new phenomenon known as “energy poverty”. The consumers or social groups experiencing this situation are mainly people over

sixty years of age, unemployed persons, those on welfare benefits and those living on low incomes.

To alleviate this circumstance, a “winter truce” has been called in other countries for preventing the companies from cutting off the supply during the cold weather months and guaranteeing a minimum subsistence coverage for those persons at risk of social exclusion.

This Institution got an ex-officio investigation under way with the Spanish National Market and Competition Commission and with the Ministry of Industry, Energy and Tourism Office of the Secretary of State for Energy for the purpose of requesting information on the number of homes where the electric power supply has been cut off, the reasons for the same and the possible measures for keeping energy poverty from increasing.

The reports from the 2011 and 2012 years have previously dealt with the implementation of the social allowance on the household bills as an added mechanism for protecting vulnerable groups. The Ombudsman has request the Office of the Secretary of State for Energy to extend this aid to cover a large number of citizens. The Ministry of Industry, Energy and Tourism replied that the “vulnerable consumer” concept shall be determined under regulations by the Government. In this Institution’s opinion, it is pressing to determine this new consumer-related concept, given that those consumers with less buying power are those who are suffering most from the consequences of the legislative measures for dealing with the problem of the electric power system’s disparities. Therefore, the Minister of Industry, Energy and Tourism has been asked to precisely state to the most specific degree possible exactly when the regulation including the definition of a “vulnerable consumer” is going to be in place.

Lastly, a general investigation has been gotten under way with the Spanish National Market and Competition Commission due to the numerous complaints lodged regarding fraudulent practices on the part of some companies for the purpose of getting consumers to change over to a different company.

Water

Complaints continue being put forth regularly concerning the problems regarding the water supply being cut off without prior notice by the water companies, the disagreement with the exceedingly high amount of the

bills and, to a lesser degree, complaining about the issues regarding faulty water meters.

Government contracts

In 2013, the complaints continued from citizens who are experiencing economic difficulties caused by not being able to collect the sums owed thereto by the municipal and Autonomous Community governments for services, assistance and supplies they are providing for the same.

The cash deficit the burdening the municipal institutions has given rise to default on the payment obligations engaged under contract with suppliers and contractors. This situation has arisen in Administrations such as the Municipal Government of Tarancón (Cuenca); Municipal Government of Pétrala (Albacete); the Municipal Government of Valdemoro (Madrid) and the Municipal Government of La Línea (Cádiz), which has go so far as not to pay their employees' monthly paychecks.

The passage of Royal Decree-Law 8/2013 of June 28th on urgent measures against the public administrations in arrears and in support municipal institutions experiencing financial problems has provided a solution to payment-related problems. This is the case of the Municipal Government of Alicante/Alacant, Municipal Government of Villablino (León), Municipal Government of Ocaña (Toledo) and the Autonomous Community of Castile-La Mancha, Institute for the Promotion of International Trade & Investment Abroad.

Another reason giving rise to the local administrations not making payments is the lack of funds as a result of their not collecting the subsidies of other administrations. This is the situation of the Municipal Government of Madrigueras (Albacete) and the Municipal Government of Miguelturra (Ciudad Real).

Government subsidies and aid

In 2013, there have been numerous complaints regarding the government subsidies and aid granted but not paid by the competent Administration.

A large number of complaints are related to the process of carrying out international cooperation projects. In most of these cases, due to the delay in the payment on the part of the respective Administration, the non-

governmental organization has advanced the funds for the purpose of carrying out the subsidized project and keeping the commitments made.

Getting the third phase of what is referred to as the financing mechanism for the payment to suppliers under way via Royal Decree-Law 8/2013 of June 28th, which includes the transfers from the Autonomous Communities or from the local entities to associations and institutions which are not-for-profit or for social purpose is facilitating the payment of the government subsidies and aid.

There are cases in which, after being granted public assistance, it cannot be paid out due to the lack of budget funds. In these cases, information is requested from the Administration on the use given to the credits intended for meeting the economic obligations resulting from the grants made, a reminder being put forth as to General Subsidy Law 38/2003 of November 17th setting forth that the granting of a subsidy must fulfil the existence of sufficient, suitable credit for meeting the obligations of an economic nature stemming therefrom.

PUBLIC FUNDS

State taxes

The main measures taken by the Ombudsman concerning tax-related matters revolved around correcting the errors detected on the settlement of the taxes due and payable, facilitating the fulfilment of their tax obligations on the part of the taxpayers and trying to convince the administration to interpret the regulations in force more flexibly.

In the opinion of this Institution, the public powers should make more of an effort to put the tax regulations in synch with the actual situation of the citizenry. The 2014 tax reform should update the individual and family personal income tax minimums and take into account the recommendations which have been put forth through the Ombudsman Institution, which are a reflection of the needs of the citizenry.

Personal Income Tax

The Personal Income Tax is the state tax giving rise to the greatest number of complaints on the part of the citizens.

The Ombudsman stresses it being necessary for the information services provided by the Tax Agency

(AEAT) by telephone and in person to be improved, especially the appointment-scheduling service. This Institution has put forth several recommendations for improving its functioning, both for increasing the training of their personnel and the guarantees of the advisory given, for example, by leaving a record of all of the documentation furnished by the taxpayer or of the reasons why it has not been possible to prepare the draft tax return. A recommendation has also been put forth as to providing taxpayers with confirmation, by SMS or e-mail, as to the tax return having been officially filed online.

This Institution has also requested the Tax Agency (AEAT) to clarify the communications it sends to taxpayers, and that it word what it writes in a language which will be readily comprehensible for the recipients thereof.

Another recurring complaint is the rigidity of the Tax Agency when interpreting and applying the regulations in force. The Ombudsman has recommended to the Tax Agency that it specify what means of proof may be furnished by the taxpayers in order to substantiate the veracity of the facts stated. This recommendation has been rejected.

This Institution has also requested greater flexibility when granting extensions on time and payment in instalments, regarding both the requests filed and in the process of determining the time frames and the amounts of each one of the individual instalments to be paid.

In the opinion of the Ombudsman Institution, the actual situation of the citizenry makes it indispensable for some aspects of the regulations in force to have to be modified. One clear example is the limit set in order to be able to apply the minimum for ascendant relatives, which has been situated at annual incomes of less than 8,000 euros since 2002 and has not been updated. This Institution considers that these individual and family limits must be updated in the Spanish tax system reform announced for 2014 so as to keep them from being obsolete.

Following the recommendation put forth by the Ombudsman, said reform will be modifying the regulation regarding when the subsidies are charged, as there are cases in which some incomes granted by the Administration but which have not as yet been collected are paradoxically being included in the taxable base of the personal income tax, and taxes are having to be paid thereon.

Lastly, complaints were once again lodged with this Institution in view of the lack of homogeneity when determining whether or not common law couples comprise part of the same family unit. For personal income tax-related purposes, they are not included despite the fact that this would mean a benefit, they nevertheless being considered as one single family unit in other situations in which this is to their detriment. In the opinion of the Ombudsman Institution, a uniform criterion must be set out throughout the entire Public Administration with regard thereto that is not to the benefit solely for the Administration.

Value Added Tax

Numerous complaints were received concerning the Value Added Tax (VAT), above all regarding the rates being raised and the change in the rate chargeable on some products and services.

Complaints were also filed concerning the obligation of filing the VAT return exclusively online. This Institution has requested the Tax Agency (AEAT) to allow it to be filed on hardcopy format, as has been done to date, that it install computer terminals manned by agency personnel to help and provide advice to those citizens who want to file their self-assessments and tax returns online, and that penalty proceedings not be instituted for the incorrect filing of these forms until the error-free functioning of this system is guaranteed.

As far as the rise in tax rates is concerned, this Institution put forth a recommendation to the Office of the Secretary of State for Finance as to the super-reduced 4% rate being maintained for all government-subsidized housing, although this request was denied.

It has however been made possible to change the administrative doctrine maintained to date as far as the tax treatment of the child monitoring services provided during school lunchroom time is concerned. To date, the services provided by federations, foundations and associations for children over 6 years of age were not exempt from the VAT. However, the Office of the Secretary of State for Finance has assured that it will be eliminating the reference to the age limit.

The Office of the Secretary of State for Finance has also agreed to modify the criterion of charging the VAT on gluten-free food products fit for persons allergic to gluten so that the taxation thereof will be comparable to that charged on regular bread.

Municipal taxes

Joint management

The complaints have to do with taxes which are jointly managed (when a state agency prepares the census or official list of residents based on which the tax and the collection thereof is carried out through the municipal administrations) revealing difficulties for proper coordination between the administrations. They also reflect the scarce degree of expeditiousness of the different agencies for correcting errors once detected by means of being reported by the taxpayer affected, the process of the error being corrected being drawn out over the course of time, thus maintaining the detriment and increasing the number of complaints for this reason.

Mechanically-Propelled Vehicle Tax

The main reason for complaint in 2013 was related to the summary proceedings for collection, with payments made twice in two municipalities for the same taxable object and tax years, and for the collection via summary proceedings for tax years which had exceeded the statute of limitations.

Complaints were also common concerning the lack of coordination between the Directorate General of Traffic and the municipal governments, given that vehicles for which deregistrations had been processed in previous years have been kept on the registered vehicle listings and the tax bills being continued to be issued after the fact.

The errors in the addresses of the vehicle owners and no notifications being provided at the point in time of enforced recovery proceedings being instituted have prevented the interested parties from having been able to allege the different errors made in bank accounts prior to the freezing of assets. This entails a twofold detriment: the initial detriment for the citizen from whom an undue tax is collected, and secondly for the citizenry as a whole, given that the citizen in question must be paid interest for the length of time elapsed commencing as of the point in time when the amounts were inappropriately seized to the point in time when they are returned.

Real-Estate Tax

As of the passage of Royal Decree-Law 20/2011 of December 30th, by virtue of which urgent measures were adopted for offsetting the public deficit, there has

been a rise in the Real-Estate Tax (IBI) within the 4%-10% range, depending on the year in which the General Value Appraisal was approved in each municipality.

Most of the complaints lodged have been due to the tax rate increase, which has been in addition to those which had already been approved by the municipal governments by means of tax ordinances, and the rise in the taxable base which has come about with the newly- assessed property values.

The taxpayers consider that a disproportionate effort is being demanded of those who keep their home, and that the taxes charged may force many people to abandon the idea of owning their own homes and opting to rent some place to live, which is not in keeping with the tradition and customs of this country.

The complaints regarding the tax rate, taxable or tax base thereof have not been accepted for processing, generally speaking, due to the Administration having acted within the legality of the tax legislation. However, these complaints continue coming in assiduously on a regular basis.

Complaints have also continued to be lodged with the Ombudsman Institution by citizens at risk of social exclusion, as pensioners or persons with disabilities, to whom this means being forced to devote up to one third of their annual incomes to paying the tax charged.

The complaints concerning this issue have been being combined into a group proceeding as of 2006, it having been repeatedly recommended that the text of Royal Legislative Decree 2/2004 of March 5th, enacted in approval of the revised text of the Law Governing Local Public Funds, be revised to adapt to said situations.

Specifically, it has been recommended to the Administration that it lower the taxes levied or exempt from the same those real-estate properties which are the permanent residence of taxpayers whose economic situation may become precarious due to the tax charged (i.e. persons collecting minimum incomes, persons with severe disabilities or dependence, or persons with limited incomes for whom the payment of this tax may entail the loss of the home or entering into risk of social exclusion).

The response from the Office of the Secretary of State for Finance has remained the same as of 2009, deferring any change on the allowances and exemptions from local taxes to a future modification of the local financing and the taxation of local entities.

Urban Land Value Increase Tax

Commonly known as the “Capital Gains Tax”, this is one of the taxes giving rise to the greatest disagreement among taxpayers, who consider it to be the most extortionate tax concept in all local taxes levied. As of the start of the crisis, the complaints regarding this tax have grown by 80%. In 2013, they were 30% higher than those in 2012.

The tax allowances are limited to transfers to direct descendants and the transfer of lands connected to economic activities of major importance. None of these is applicable to anyone who has lost their permanent residence in mortgage foreclosure proceedings nor who has sold their property due to not being able to make the mortgage payments or meet the maintenance expenses. Therefore, the citizens are complaining of the impossibility of meeting these payments, even when the Municipal Government approves instalment payments, given that a 20% surcharge is added onto the final amount for failure to make payment during the voluntary period, plus the interest generated by the debt.

The modifications made regarding this tax solely afford the possibility of reversing the taxpayer in the case in which the home is transferred to the entity with which the mortgage is held, given that in any other case, the taxable event takes place, even in those cases in which the selling price has had to be lowered so as not to lose the property or end up in a mortgage foreclosure.

In the opinion of the Ombudsman Institution, this is a tax which does not respect the principle of economic capacity or of payment, nor is it connected with an expression of the taxpayer's wealth, the modification or complete elimination thereof having therefore been repeatedly requested, without any success to date.

Local taxes

In 2013, the tax-related complaints increased as a result of the implementation in many municipalities of taxes for services which the municipal governments had been providing without requiring anything in exchange up until that time.

It is customary to find that municipal governments levy taxes on their residents whenever there is a cash deficit, therefore going by the principle of opportunity, which cannot be criticized in itself, but which can indeed be criticized when it is resolved to do so without showing respect for the legal regulation thereof, going

so far as to institute taxes for services which have been covenanted under agreement as services which are free of charge.

The tax regarding which the greatest number of complaints have arisen is the urban solid waste collection tax, which has been newly passed in many municipalities, having raised the amount paid above that of previous years: or, having increased the amount charged, have lowered the quality or frequency of this service.

Another municipal tax which has given rise to many complaints is that of levying a tax on the intensive use of the sidewalks for vehicle access to parking places. The rise in the amount charged and the change in the ordinances for the calculation thereof have meant a remarkable rise in comparison to the year before, regarding both the substantive aspects of this tax as well as the management of the collection thereof.

An outstanding number of complaints have also been received regarding the Autonomous Community of Valencia “TAMER” tax, which rose by 150% and regarding which a contentious-administrative proceeding was instituted. This is a tax which finances the maintenance of the Metropolitan Wastewater Treatment Entity and is collected along with the water bill. Although it was initially implemented in 2009, many taxpayers did not know of its existence until the amount thereof made it difficult to pay the water bill.

Tax proceedings

The public administrations rarely respect the time periods set forth under law by which the processing of each one thereof must abide. At times, legislators have not been realistic concerning the administrative capabilities for rendering a decision within the stipulated time frame, and the time frames sufficing in other cases not even being respected. There is an abuse of administrative silence, and there is no directly proportional relationship between the demands placed on citizens regarding complying with these time frames and the laxness with which the administrations apply the same in their own case.

Also common are the complaints due to no notification or erroneous notifications being given for the taxes paid and regarding the summary proceedings for collecting the tax debts. These errors affect the efficacy of the act, which can even be considered null and void if it does not respect the established rules.

Economic-Administrative Courts

From the complaints received, it is inferred that the courts showing the longest delays are those of the Autonomous Communities of Catalonia and Castile-La Mancha. An investigation is currently ongoing with the Office of the Secretary of State for Finance in order for measures to be adopted to provide a solution to this situation.

Real-Estate Register

Numerous complaints continue to be lodged concerning the registry, amendment or changes made in ownership-related data. The majority of the complaints received had to do with erroneous ownership information due to registrations to the name of third adjacent third parties or alteration of the order of registration or the percentage shares held in the asset in question, as well as alterations which are recorded as a result of collective appraisal procedures.

Complaints continue to be lodged concerning the delay in the procedures, the explanation as to the grounds on which decisions are made, the effective date of the procedure for the settlement of discrepancies and the examination and consideration of the allegations of the interested parties.

As far as the appraisal value is concerned, the drop in the real-estate values as a result of the economic crisis has led to the values appraised since 2005 being outdated, as a result of which the Ministry of Finance and Public Administrations approved an updating proposal. However, this measure solely covers the appraisals made from 2005 to 2007. The system forces the municipalities interested in applying the same to so request, said request having to be approved by the Ministry proper. For 2013, this measure has been approved in 176 of the 1,496 municipalities where new values were appraised during the aforesaid years, thus meaning that solely 11.76% of all of the municipalities which could have taken recourse to this measure will be able to put it into practice.

The reference modules were set out in 2005, and although they have subsequently been corrected, no decreases have been found to exist, and the modules for appraising buildings with the same amounts having continued since 2008, although those of the land have slightly lowered. This has given rise to numerous complaints regarding both the disagreement with the value originally appraised and the tax-related measures

under the different tax concepts which have meant an increase in the maintenance of a property, independently of whatever use may be given thereto.

TRANSPORT AND COMMUNICATIONS

Communications

The new General Telecommunications Law bill is currently in the process of being drafted. The enactment of this new law in place of the law of 2003 means, on one hand, coverage being provided for cases heretofore not covered under the law and, on the other hand, that the citizenry in general and the telecommunications services customers in particular will see their interests heretofore uncovered under the laws and regulations currently in force to then be safeguarded

This Institution is preparing a study on the current situation of telecommunications in Spain in which stock is taken in historic and legislative terms as to the evolution of this market, and different recommendations are put forth for improving the current situation and providing a solution, insofar as possible, to the problems and deficiencies detected as a result of the experience accumulated over the course of recent years.

In 2013, as in previous years, the issues within the realm of fixed telephony have to do with problems of a technical nature making it possible for the fixed telephony service to be provided and discrepancies with the billing.

The Telephone Company's social subsidy is a price plan for retirees and pensioners whose family income does not exceed the indicator which is determined at each given point in time by the Government-Appointed Commission for Economic Affairs. This consists of applying an allowance to the total amount of the initial service sign-up fee and on the fixed fee of a periodical nature for connection to the network. At present, the Public Multiplier-Effect Income Indicator (IPREM) is the reference indicator and has not varied for the 2010-2013 period, although the slight 1%-2% rise in the minimum pensions means former beneficiaries being excluded. Therefore, a recommendation was put forth to the Government-Appointed Commission for Economic Affairs as to the threshold of the applicable income being modified so that the pensioners and retirees will be entitled to the social subsidy and thus prevent a major number of citizens from being excluded from the scope of this

benefit. On the date of the writing of this report, the report as to whether or not this recommendation has been taken is currently pending receipt.

The possible exclusion of social subsidy beneficiaries is nothing new, as it was included in the report presented in 2010 and, as a result of the recommendation which was also put forth at that point in time, the citizens saw their requests answered and the exclusion being prevented of those who had been collecting said subsidy up until that time.

As far as the mobile telephony-related complaints are concerned, the vast majority had to do with technical problems related to coverage of an ongoing nature in some localities and with the billing of the services.

Once again this year, numerous letters have been received concerning the slow-paced expansion of wideband communication in Spain. Both the operators providing this service and the Public Administration have to adopt the fitting measure to narrow this digital gap.

Transportation

The economic difficulties and budget cuts are having consequences on the transportation services, which have modified their frequency and cancelled some connecting lines. The companies are providing fewer services, and the public administrations are limiting those which they provide directly.

This Institution opened an ex-officio investigation due to the total elimination of more than 40 medium-distance lines on the part of the train service operator Renfe. The medium-distance railway service rationalization Plan approved by the Council of Ministers on December 28, 2012 makes an intermodal offer by combining medium-distance railway services and regular road transportation services, opting in each case for that which is most efficient and at the lowest cost for citizens.

The relations with a rate of use higher than 15% and those which, being 10%-15% could then achieve this latter figure with efficiency-oriented measures have been declared a public service obligation. Other lines have been maintained thanks to the collaboration with some Autonomous Community having taken responsibility for the operating deficit they generate.

In this Institution's opinion, the modification of the conditions for the provision of the public service due to the implementation of an operating program

has respected the constitutional right to freedom of movement of the citizens of Spain within this country.

However, some budget measures adopted have a bearing on the constitutional principle of equality. This is the case of the failure to carry out the accessibility-related works within the time frames and under the conditions set forth under Royal Decree 1544/2007 of November 23rd, by virtue of which the basic conditions of accessibility and non-discrimination for access to and use of the means of transport by persons with disabilities are governed.

The rule of law stipulates the horizon line in time for the accessibility of the stations at eight years immediately following the entry into effect thereof at stations with an average annual traffic of 1,000 passengers/day and of 13 years if the traffic lies anywhere between this figure and 757 passengers/day.

This Institution has also dealt with the right of access to public urban transport under conditions of equality on the part of persons with disabilities, which requires the adoption of different measures at the bus stops. Some are not in keeping with Royal Decree 1544/2007 of November 23rd, by virtue of which the basic conditions of accessibility and non-discrimination for access to and use of means of transport for persons with disabilities are governed. In other cases, fully complying with said provision of law, the buses cannot drive directly up close to the bus stops due to private cars being parked right in front of the stops. The Municipal Government of Madrid is adopting measures to provide a solution to deficiencies of both types, but after several years having done by since this endeavor was first gotten under way, this has not as yet been completely achieved.

An ex-officio investigation was also gotten under way with the Municipal Government of Madrid concerning the eurotaxi service being halted throughout the entire area overall where it was being provided in Madrid, covering 44 municipalities. One of the main problems is the scant number of adapted vehicles currently existing in Madrid.

Article 8 of Royal Decree 1544/2007 of November 23rd, by virtue of which the basic conditions of accessibility and non-discrimination for access to and use of means of transport for persons with disabilities are governed sets forth the obligation of promoting in all of the municipalities that a percentage of the taxi licenses be for adapted vehicles. If the aforesaid percentage is not covered, the municipal governments have to require that the vehicle be accessible for the last licenses which are granted.

Environment and Urban Development

The Government will be incorporating the Spanish Ombudsman's recommendations into the Coastal Law Regulations

The recommendations put forth as a result of the passage of the Coastal Law will be incorporated into the future Regulation. Night-time entertainment, congregating for binge drinking outdoors in public and pavement cafés were the focal points of the investigations regarding noise. This Institution opened several ex-officio investigations for the elimination of architectural barriers and for improving accessibility to buildings. It also took action regarding construction works already having commenced being halted, leaving many citizens defenseless and homeless or with incomplete services.

ENVIRONMENT

Rights of access to information and public participation

In 2013, the complaints continued concerning the right of access to information. Various cases have been dealt with in which the environmental nature of the information requested seems clear. In the opinion of this Institute, facilitating information is simply one further manifestation of normal, ordinary functioning of the public services.

There were also frequent complaints due to administrative silence regarding a request for environmental information. Occasionally, the Administration provides the Institution with the information request but does not convey it to the interested parties when the duty of giving access to the information is not met by way of

the Ombudsman, citizens are entitled to be furnished with this information directly from the public service from which they have requested the same.

The recent Transparency, Public Information Access and Good Governance Law 19/2013 of December 9th is applicable by default to access to environmental information solely “in that for which provision is not made” under the regulatory standard (i.e. Law 27/2006), which is classified as “special regulation of the right of access to public information”. According to the Transparency Law, access to environmental information is governed by its specific regulations.

Despite its title and in a literal interpretation, the Transparency Law could restrict – in fact, prevent – access to “communications and reports which are internal or between government bodies or entities”, at least if they include information of an” auxiliary or

supporting nature”, but this restriction must not be interpreted extensively nor with the intensity which this precept seems to make possible at first glance.

It is true that not accepting a request for information for processing requires a decision stating the grounds for the same, but there are also papers, studies, opinions and decisions set out in communications and reports which can even be prescriptive and which would be classified as “internal or between government bodies or entities” solely for the purpose of refusing access to the information included therein.

Other limitations which are set forth under the aforesaid law should also be construed restrictively. For example, Article 14 thereof permits limiting access to the information whenever it entails a detriment for the prevention, investigation and penalization of the administrative or disciplinary aspects illicit for the administrative functions of surveillance, inspection and control even up to “the protection of the environment”.

This type of rules can be used not in accordance with transparency, but rather for adding opacity. And this is independently of the fact that the law sets forth the obligation of the application of the limits being justified and that they be in proportion to the object and end purpose thereof, and that the application thereof must be in keeping with the circumstances of each specific case in question. These circumstances include the classification of the concurrence of a “public or private interest” above and beyond that which justifies the access in question.

That which was previously stated in the 2010 report must be reiterated: access might be denied to “internal communications” on environmental matters, but this internal nature must be construed strictly, and the phrase “between government bodies or entities” should not have been added to the Transparency Law, as a communication from one body to another, and even more so from one Administration to another, is not “internal” but rather external.

The complaints received concerning the right of public participation revealed that difficulties still continue to exist with regard to participation in regulatory projects due both to material deficiencies and to the total absence of any possibility of participating.

One matter dealt with by this Institution in 2013 was the right of access to justice by the environmental organizations. The Ombudsman Institution is of the

opinion that an interpretation must be given which is favorable to the extension of this right. The Free Legal Aid Law 1/1996 of January 10th currently in effect does not specifically recognize these associations as being entitled to free justice and so allows solely for the public service associations when they provide substantiating proof of insufficient resources for litigating. The suggestion was therefore put forth to the Ministry of Agriculture, Food and Environment that, in addition to favorably interpreting public participation in the regulatory projects having an impact on the environment, it weighs the allegations made by the complainant ecologist association in the preparation of the bill which will modify that of free legal aid. This suggestion has been well-taken and, for facilitating the participation in the preparation of the bill for free legal aid, the environmental department conveyed to the Ministry of Justice the request of the ecologist organization.

Impact Assessments. Municipal Permits.

As far as the environmental assessment of projects is concerned, worthy of special mention are the investigations of the use of fracking in Cantabria, regarding the possible seismic risk associated to the “El Castor” (Castellón) gas storage plant and on different natural gas harvesting and storage projects in the area around Doñana.

A matter which opened and closed in 2013, remarkable for its social scope and nature, is a case opposite to that of numerous complaints received years ago concerning the refinery in Los Santos de Maimona (Badajoz). In 2013, others supporting its being set up (some 9,000 signatures) were received. The complaint was accepted for processing as were the complaints from those we were against this facility.

Those now lodging complaints alleged discrimination with this project because, meeting all of the safety and environmental requirements, the Ministry of Agriculture, Food and Environment issued a negative Environmental Impact Statement, while the projects of a similar scope had managed to succeed.

The Ombudsman Institution cannot and must not state its favorable or unfavorable opinion regarding the setting up of a refinery. As numerous complaints were processed against the refinery, now others were being processed in favor thereof. The Ombudsman Institution's function must be to review the action taken

by the Administration as being valid and convincing. It was not possible for the Ombudsman Institution to come to any outright conclusions. The Environmental Impact Statement and the substantive decision – which will be the refusal of the permit for setting up the refinery- can only be reviewed in depth on a binding basis by the judiciary. The Ministry's reasons do not seem to lack grounds, however nor do they lead the Ombudsman Institution to be completely convinced of the complaints not being well-founded. At the same time, the comparison thereof with what the Ministry stated did not lead this Institution to suggest the cancellation of the Environmental Impact Statement.

Natural Resources

Several ex-officio investigations are currently in their initial stages concerning the lack of coordination among administrations, for example, between the State and Autonomous Community administrations due to the beaching of a group of sea mammals on Mañón Beach in Corunna. This is not an isolated event, but rather one which occurs rather often on the coasts of Spain.

In those matters in which several administrations may be involved, coordination should be standard practice and not require any special legal instruments. In cases such as the aforementioned one, it can be useful to design protocols for taking action which are set out in multilateral or bilateral agreements among the State, Autonomous Community and even Municipal Administrations.

There have also been investigations on the subject of phytosanitary products or pesticides due to spraying in open public spaces without prior notice or informative signs in the municipality of Aigues (Alicante) and an ex-officio investigation concerning the massive death of bees due to the possible use of fertilizers in nearby farm fields in Santa Coloma de Farners (Girona).

Complaints were also processed due to the mistreatment of animals both in traditional fiestas and due to dogs being abandoned.

Most of the complaints are sent in by animal welfare associations, often due to no response from the Administration in reply to their complaints. There are delays and the processing of the cases is slow-paced, they exceeding the appointed time frames, not providing access to the information requested or not taking action expeditiously. An ex-

officio investigation was also opened concerning pharmaceutical experiments with apes at a center in Camarles (Tarragona).

There are additional several ex-officio investigations currently in the starting stages due to contamination caused by mines in Ourense, Corunna and in different localities in Asturias.

Similarly worthy of special note are the recommendations put forth to the Ministry of Agriculture, Food and Environment regarding Law 2/2013 on the Sustainable Use of the Coast and amendment of the Coastal Law passed in May by Spanish Parliament.

According to the announcement made by the Ministry of Agriculture, Food and Environment, the suggestions put forth by this Institution will be incorporated into the Coast Regulations, currently still pending passage.

The end purpose of the recommendations is for utmost precaution to be taken for assuring the protection of the coast in rolling out the regulations.

This Institution has stressed the land-sea area being defined in the Regulation based exclusively on scientific, physical criteria without taking aspects of any other nature into consideration, with which the Ministry has shown itself to be in agreement. The Ministry is also in agreement with the applicability of the principle of the obligation of repairing the damage caused in the public domain not being subject to ceasing to exist due to exceeding the statute of limitations or lapse of time.

On accepting these recommendations, the Ministry of Agriculture, Food and Environment undertakes the Regulations including as express criteria when setting the condition for authorizing publicity that the landscape not be altered, that no noise be made, that no visual barriers be created, that there be no vibrations and similar criteria.

The "formal statement" for undertaking works which may cause an environmental impact should be accompanied by an economic guarantee of remediation. The Regulations would determine the minimum contents of the declaration, so that it will be effective and the persons affixing their signatures thereto will know what responsibility they are taking upon themselves. The Regulations should also specify that when events of general interest are authorized to

be held on the beach, the costs of the preventive and remedial measures are born by the promoter-organizer.

This Institution has also recommended that public participation in the administrative procedures (setting property lines, authorization, concession, declaration of situation of “severe regression” of the public land-sea domain) be facilitated, as well as providing the citizenry with more information by means of the Ministry’s webpage.

Regarding this matter, this Institution has insisted on the fact that, given the exceptional nature and special geomorphological configuration of the Island of Formentera, the opening of the boundary-setting limits should be made known extensively to the public on a widespread basis.

Lastly, there are several investigations related to the Doñana National Park. Hence, preliminary information has been requested from the Guadalquivir River Basin Authority and from the Autonomous Community of Andalusia Government concerning underground water catchments for irrigation in Almonte (Huelva) and regarding the approval of the Special Plan for the Organization of the irrigation areas to the north of the Forest Crown of Doñana.

Contamination

In 2013, investigations continued concerning the bad odors suffered by the residents of the Valdemingómez (Madrid) facilities. This year, the Association of Residents of the Vallecas Expansion Urban Development Plan commissioned an engineering firm to conduct an olfactometry study, the results of which contradict those conducted by the Municipal Government of Madrid in 2011 and 2012. Last autumn, a meeting was held between the First Deputy Ombudsman and a representative of the residents in view of no agreement having been reached between the residents affected and the Municipal Government of Madrid.

This Institution, which cannot settle a dispute concerning the intrinsic validity of olfactometry studies, is currently looking into suggesting the implementation of a special plan for supplementing the ordinance-related condition of the Valdemingómez Technological Park, the protection of the urban development and architectural assets of the Vallecas Expansion Urban Development Plan and, in general, the rehabilitation and improvement of the urban

environment of the neighborhood affected (article 50 of Autonomous Community of Madrid Land Law 9/2001 of July 17th).

Several air pollution-related investigations are currently ongoing.

As far as noise pollution is concerned, worthy of special mention are the investigations conducted concerning annoying disturbances caused by night-time entertainment. This Institution is of the opinion that if the municipal governments do not measure the noise levels by alleging their not availing of means to take these measurements, then it is recommended to request assistance and cooperation from other administrations or rely on the services of a duly qualified, private professional expert. As far as the noise caused by what is referred to as the “botellón” (congregating for binge drinking in outdoor public areas), it has been recommended to intensify checks, issue ordinances and even prohibit the same.

Pavement cafés are also a focal point of noise and annoying disturbances for residents. The Local Administration grants permits for their being set up without respecting their own ordinances and does not measure the noise levels. In these cases, the Ombudsman has suggested making the closing time earlier as a measure for reducing disturbances for the residents. The Spanish Federation of Municipalities and Provinces (FEMP) has accepted these recommendations put forth by this Institutions for reconciling entertainment with the respect for a peaceful atmosphere and the rest of the residents in terms of the lacks found to exist in the complaints received.

URBAN DEVELOPMENT

Planning and development

The main investigations on the part of the Ombudsman Institution concerning this matter had to do with the Autonomous Community of Madrid Sustainable Rural Housing Law regarding which a request was received for the filing of an appeal on the grounds of unconstitutionality; and delays in the processing and approval of urban development management plans and projects in Gondomar (Pontevedra), Ventas de Retamosa (Toledo), Algaida (Balearic Islands) and in Fuente el Saz de Jarama (Madrid).

Similarly, an intervention was carried out in view of planning not having been carried through completely in the developments Ceres Golf (Caceres) and Pla de la Torre in Torres de Claramunt (Barcelona).

The construction industry crisis is causing constructions works already under way to be halted and unfinished developments and buildings to be abandoned. The works cannot be taken over by the Municipal Government on not having been carried out correctly, which leaves the residents in a desperate situation of defenselessness, without decent housing.

This Institution has put forth the suggestion to the municipal governments that they enforce the security guarantees, bonds and bank guarantees furnished for guaranteeing the development. In more than one case, these guarantees / bonds (if there were actually required and set up) are scant, and the developers prefer to write them off as a loss rather than finish the development and fully complete homes which cannot be put on the market as matters stand today. This Institution has urged the municipal governments to prevent the occupation of housing units which are unfinished and which therefore lack a first occupancy permit. In the opinion of the Ombudsman Institution, a Municipal Government must see to the works and structures being kept in safe condition by requiring the developers to keep them up so that they are will not be unsafe.

Permits

In 2013, numerous complaints continued to be received due to incidents concerning first occupancy permits. The Municipal Government of Valle de Olla (Navarre) accepted the ideas and suggestions made by the Ombudsman Institution. Other investigations into problems of this type regarding permits were conducted with the Municipal Governments of Colmenar Viejo, Leganés (Madrid) and Jaraiz de la Vera (Caceres).

Homes destroyed by the fire in Mijas (Malaga) in August 2012

On January 18, 2013, the Ombudsman visited Mijas and held a meeting with the Platform of residents whose homes were affected by the forest fire which devastated a good part of the municipal district (2,567 hectares) in August 2012. The houses had been completely destroyed or had suffered major structural

damage, but those affected could not undertake their repair given that this is a matter of buildings outside of zoning, located on land zoned as not suitable for development, as a result of which the Municipal Government could not authorize said repairs.

This Institution currently has an ongoing investigation under way regarding this case and is currently waiting for both the Municipal and Autonomous Community Government administrations to provide a description of the current status of this matter and the progress made over the course of recent months.

Rehabilitation and Rebuilding

The Ombudsman from the Autonomous Community of the Region of Murcia processed a complaint at the request of the Assembly of Lorca Residents Affected by the Earthquake which occurred on May 11, 2011. Following the elimination of the Autonomous Community Commission, the complaint was undertaken by this Institution, which opened investigations with the Municipal Government, the Ministry of Public Works and the Autonomous Community of the Region of Murcia Department of the Presidency.

In July 2012, the Ombudsman made a visit to this municipality for the purpose of gaining first-hand knowledge of the problems causing the concern of those affected: the reconstruction of healthcare and educational facilities, delay in rental subsidies, in the construction of 300 modular housing units and in the reconstruction of home on demanding unanimity in the owners' association for meeting the expenses.

For expediting the process of making developed land available, a suggestion was put forth to the Ministry of Public Works and to the Department of the Presidency that the Autonomous Community Administration finance the action in favor of the Municipal Government, that it develop in replacement or that the Public Land Management Company (SEPES) intervene as the developing agent.

The suggestion was also put forth of expediting the processing of the applications for rent subsidies so that a decision be issued as soon as possible regarding those applications which were pending approval and that it be proceeded to pay those which had already been approved but were currently pending payment.

The second of the aforesaid suggestions met with acceptance. According to the data furnished,

a decision has been issued regarding 1,525 applications for rent subsidies, meaning more than 97% of the total number.

Urban Architectural Barriers

The investigations regarding the rights of persons with disabilities encompass the complaints concerning architectural barriers in public and private buildings which prevent or seriously hinder free movement and access.

Despite the efforts made for improving the lack of accessibility in public buildings, there is still a long way left to go. At times, the special characteristics of the building do not make it possible to make it totally accessible, however a correct planning and distribution of the activities in a building can at times suffice for providing a solution to the problems without any need of construction work, with the resulting savings on costs and time. For example, by moving the public activity and citizen services to the ground floor levels of the buildings and leaving the upper floor levels for uses subordinate to the main use and for access solely to the personnel employed at the centers.

The greatest number of complaints has to do with barriers in private buildings, more specifically due to the common elements and access to the apartments in the owners' associations, especially due to the installation of elevators, not being appropriate. In 2012, complaints came in regarding the delays in the subsidy for installing elevators in the Autonomous Community of Madrid and due to delays in the payment of the aid granted.

This Institution has detected problems of financing in the municipalities for eliminating architectural barriers due to the reduction or even elimination of both State and Autonomous Community grants and subsidies. The urban barriers are a real problem for taking part in normal life on the part of many citizens, affecting not only the persons with disabilities but also elderly people, the infirm, children, pregnant women, parents pushing baby carriages, etc. The elimination of barriers is a necessity.

The Ombudsman has opened ex-officio investigations with the Autonomous Community Government of Galicia Department of Labor and Welfare concerning the elimination of the Fund for the Elimination of Barriers in the Accessibility Law bill which is currently in processing; with the Institute for the Migrations and Social Services (IMSERSO) concerning agreements

signed for the purpose of preparing, expanding upon and carrying out universal accessibility and non-discrimination plans and programs and concerning the amount allocated to the accessibility programs to which the municipalities adhere.

A request has also been placed with the Ministry of Health, Social Services and Equality for information regarding the results of the evaluation of the First National Accessibility Plan, the current status of the processing of the Second National Plan, resources allocated for the implementation of the 2012-2020 Spanish Strategy on Disability and the current processing status of the respective Plan for Action, and also concerning the new General Law on the Rights of Persons with Disabilities and Their Social Inclusion.

MUNICIPAL GOVERNMENT ADMINISTRATION

Functioning of the city/town council plenary session and council member rights

A total of 53 complaints have been lodged by city/town council members due to the infringement of their rights as public representatives, mainly due to their not being provided with the information they request or the material means they need. When a complaint is well-founded, a suggestion is put forth to the Municipal Government as to its immediately making the documentation or the means to which the council member is legally entitled available thereto. This Institution upholds that the local representatives can and must exercise their function of supervising and monitoring the government bodies of the municipal governments as a specific example of the administrative transparency fundamental to the democratic functioning of the municipal institutions.

Citizen information and participation: recording plenary sessions and dissemination of documentation via the municipal website

The most noteworthy investigations have to do with the recording of municipal plenary sessions and the documentation which is given out for public information being made available to the public via the web for allegations.

This Institution is receiving complaints progressively more often from city/town council members and citizens attending the municipal Plenary Sessions expressing their disagreement with not being allowed to record the meeting proceedings.

The stance taken by this Institution, in agreement with that of the Autonomous Community of Andalusia Ombudsman, the Autonomous Community of the Canary Islands Ombudsman and the Autonomous Community of the Basque Country Ombudsman is that it be proceeded to authorize the recording or best not prohibit it. The Spanish Data Protection Agency has also issued an opinion in favor of the municipal plenary sessions being recorded.

With regard to the dissemination on the Municipal Government website of the documentation which goes out for public information, the Ombudsman has found that, in practice, the procedure set forth under Article 49 of the Law Governing the Bases of Municipal Regimen (LBRL) is giving rise to ordinances, regulations, urban development plans and budgets of the local Institution being approved practically without having been examined by the citizens nor any claims filed during the stipulated time frame.

This is due, in part, to the full text of the rule of law made available to the public being accessible solely in situ, given that it is not inserted into the official journals or posted on the bulletin boards, nor on the official webpages of the local institutions.

With the modifications of Articles 70, 70bis and 70ter of the Law Governing the Bases of Municipal Regimen (LBRL), legislators were seeking to broaden and facilitate citizen participation in the municipal matters on imposing upon them the obligation of promoting the interactive use of the information and communication technologies, even making provision for the provincial government offices and other supra-municipal entities with functions of assisting the municipalities having to provide the necessary cooperation when, due to economic or management-related inability, compliance with said duty cannot be rendered to a sufficient degree.

This Institution therefore opened an ex-officio investigation with the Spanish Federation of Municipalities and Provinces (FEMP), the Catalonia Association of Municipalities and Provinces (ACM), the Association of Basque Municipalities (Eudel) and the Galician Federation of Municipalities

and Provinces (Fegamp) for the purpose of their putting forth a suggestion to the city/town councils, government delegate offices and their associated local bodies that such full texts be published on their respective official webpages, which would overcome the obstacle of necessarily being physically present in order to know them and thus be able to put forth allegations.

In order for the same being well-accepted by these association being extended to all of the other local Institutions and being applied in all cases without any discretion, it is the understanding of this Institution that what is now a mere power should be mandatory, and this requires expressly including the mandate in the basic State rule of law. Investigations have therefore begun with the Ministry of Finance and Public Administrations.

Local institution activities and services

In 2013, a greater number of complaints were lodged due to streets being poorly lit, unpaved or with the road surface poorly kept up or having potholes. The municipal governments which have recognized these deficiencies have put forth the excuse of the lack of both their own economic resources as well as those obtained by subsidizing from other administrations.

This Institution is of the opinion that the scarcity of economic means cannot justify indefinitely putting of setting up minimum compulsory services if others of a voluntary or secondary nature have been provided.

Apart from the above, progressively more complaints are being lodged due to ordinances of local taxes and public prices of municipal services or use of assets for public use which determining different fees going by the official resident register of consumers and users.

This Institution has informed the municipal government as to their considering that the residents must have preference in the use of the municipal services and activities as the main contributors to the upkeep thereof, that another alternative which would be according to the law should be studied. The solution to the problem cannot be achieved by differentiating taxes based on where the person is registered as living as a resident of the municipality.

Official Municipal Resident Register Management

There have been complaints due to some municipal governments having misinterpreted the official municipal resident register rules and having registered persons who are not actually residing in the municipality or not having removed from the register those people who not residing there, or registration as residing in a certain dwelling being prevented by the Municipal Government saying that they those persons who were listed on the register as living there must authorize said registration, although they had abandoned the dwelling but had not notified their removal a long time ago.

At times, hindrances have been noted in the processing of the applications for registration in the official municipal resident register related to the nationality or race of the interested parties.

Some municipal government has also requested a foreigner who was the co-proprietor of the dwelling to bring in their spouse into the municipal office and requested the National Police to authenticate the identification documents of the persons applying for registration in the official register of residents so as not to register them if they were not legally in Spain.

In order to issue a certificate of registration in the official municipal register of residents of minors who were living in the home of one of their parents, it has been required that the other parent (who did not have the right of guardianship or custody recognized) sign the formal statement for travelling with their children, it being that the official municipal resident register cannot be used for preventing possible irregular actions on the part of divorced parents.

National Preventive Mechanism Against Torture

The Spanish Ombudsman Institution visited 60 centers for the deprivation of liberty in its NPM capacity

In 2013, a total of 60 visits were made to sites for the privation of liberty, as compared to the 52 made in 2012. The Ombudsman personally visited 15 of these centers. A total of 18 of the visits made in 2013 were multidisciplinary and involved the collaboration of external technical personnel, specialists in legal and forensic medicine, in psychiatry and in psychology. Last year, the NPM Advisory Council members were appointed.

The design of the NPM was fully completed in 2013 with the public announcement calling for the nomination of Advisory Council Members (Spanish Official Gazette of March 13, 2013) and the appointment thereof (Spanish Official Gazette of May 25, 2013). The constitutive meeting was held at the Ombudsman Institution headquarters on June 26, 2013.

This Council, presided by the Ombudsman, is comprised of the Deputy Ombudsmen and the following members: the attorney and President of the Bar Association of Santa Cruz de La Palma, Milagros Fuentes (appointed at the proposal of the National Council Spanish Bar); the physician and Vice-President of the Medical Association of Ourense, Berta María Uriel (appointed by the National Council of Official Medical Associations of Spain); the clinical psychologist and Vice-President of the Official Association of Psychologists of the Autonomous Community of Valencia, Vicenta Esteve (appointed by the National Council of Official Associations of Psychologists of Spain); the member of the U.N. Subcommittee for the Prevention of Torture, Emio Ginés; the professor of Philosophy of Law and former

President of the Spanish Refugee Aid Commission (CEAR), Francisco Javier de Lucas; the professor of International Public Law and former Chairman and member of the United Nations Committee Against Torture, Fernando M. Mariño; the attorney specializing in Penitentiary Law and professor of Criminal Law, Julián Carlos Ríos and the Lawyer specializing in Human Rights, Yolanda Román. These last five members were elected from among the candidacies presented in a public call before the Ombudsman on a personal basis or in representation of organization or associations representative of the civil society.

The first regular Advisory Council meeting was subsequently held on December 16, 2013, at which the items on the agenda included reporting the activity carried out by the NPM in 2013, the members having been offered both the possibility of suggesting facilities for the deprivation of liberty to be visited and matters to be looked into on the visits to be made in 2014, as well as their participation as observers on the visits made by the NPM, members of the Advisory Council hence having been present on 4 of the visits made in 2013.

A total of 423 visits were made to places of deprivation of liberty from the beginning of the NPM activity up to December 31, 2013. A total of 60 visits were made in 2013. The Ombudsman personally visited 15 centers for deprivation of liberty in Spain, 11 of these visits having been unannounced, with the technical members of the NPM, in which she supervised the conditions of the facilities in conjunction with these members. The other four visits were to centers for deprivation of liberty

which had already been visited previously by the NPM, to which the authorities competent in these centers were called to inspect them jointly with the Ombudsmen and thus directly and personally foster the dialog to which reference is made under Article 22 of the Optional Protocol to the United Nations Convention Against Torture.

These visits were divided as follows as per the type of facilities visited:

TYPES OF FACILITIES FOR THE DEPRIVATION OF LIBERTY VISITED	
FACILITIES	NO. VISITS
Court building jails	1
Alien detention facilities	5
Juvenile offender facilities	6
Prison facilities	8
Health and welfare facilities	2
Police stations and other places for short-term custody: National Police Force	20
Headquarters and other places for short-term custody: Spanish Civil Guard	9
Military Disciplinary Establishments	1
Prison Psychiatric Hospitals	2
Prisoner transfer operations	1
Alien repatriation facilities	1
Municipal Police Stations	1
Halls for those not admitted and applicants for asylum at border control stations	2
Hospital Custodial Units	1
Total	60

One new aspect worthy of special mention this year in the supervision of an operation for the repatriation of aliens to Ecuador and Columbia was that the NPM team, comprised of a technical member and a forensic physician, travelled in the same aircraft along with the persons repatriated and police personnel up to the final point of destination.

On the visits to certain facilities for the deprivation of liberty (i.e. prison psychiatric hospitals, health and welfare facilities or juvenile offender facilities and prisons) the aim is to conduct an in-depth study of the conditions of deprivation of liberty as well as the possible bad practices or risks of abuse which can arise, it is absolutely essential to have the collaboration of external technical experts, specialists in legal and forensic medicine, in psychiatry and in psychology,

for providing an especially qualified focus when evaluating certain scopes and protocols of the facility visited and on conducting the individual interviews with the persons deprived of liberty. A total of 18 of the visits made were multidisciplinary, that is to say, with the participation of those external experts.

A total of 28 follow-up visits were also conducted for the purpose of checking to ensure full compliance with the recommendations put forth on prior visits and identifying any possible new deficiencies.

In those cases in which the immediate measures suggested following a visit for improving the conditions of the detention are not adopted by the authorities, the NPM may officially make use of the pertinent determinations which the law recognizes

for the Ombudsman Institution, such as the recommendations, suggestions or legal reminders. Hence, in 2013, a total of 24 recommendations, 105 suggestions and 6 reminders of legal duties were put forth regarding visits made both this year and in previous years.

As far as the work done in 2013 on disseminating and making known the authorities, functioning and measures of the NPM, experts from this Division have taken part in different forums, such as the Conference on “Immigration Detention in Europe: Establishing Common Concerns and Developing Minimum Standards” organized by the Council of Europe and held in Strasbourg on November 21-22, 2013, or the Tenth University Master’s Degree on International Protection of Human Rights organized by the University of Alcalá Department of Democracy and Human Rights.

Similarly, there has also been collaboration with NPMs and human rights institutions from other

countries by holding workshops to disseminate the mission and methodology of the Spanish NPM and its practice in monitoring facilities for deprivation of liberty. More specifically, workshops were held in 2013 with the National Human Rights Commission and the Bar Association of Mauritania, and the NPMs from Albania, Montenegro, Ukraine (a visit was made to the Madrid Chamartin Police Station), and meetings were held with members of the NPM of Honduras and the NPM of Rio de Janeiro (Brazil).

Lastly, the Conference “Protocol for the Preparation of Reports of Injuries to Persons Deprived of Liberty” was held on November 12, 2013, with the attendance of judge magistrates and experts in Medicine, Psychiatry, Psychology and Forensic Medicine, including two members of the Advisory Council. As a result of this conference, the Ombudsman Institution will be presenting the “Study on the Reports of Injuries to Persons Deprived of Liberty” in 2014 with recommendations to the Administration.

Institutional Representation Activities

Institutional Representation Activities

This section lists the representation activities carried out by this Institution over the course of 2013, including not only the official representation activities, but all those which reflect the presence of the Ombudsman Institution in different national and international forums or those rounding out the work of supervising the administrations.

Annex F of this report provides an full list of all these activities, which is summarized into the following headings.

The Ombudsman of this Institution, Soledad Becerril, and her Deputy Ombudsmen are usually the one who carry out these measures, although the technical civil service personnel who work at the Ombudsman Institution are, in many, cases, the one who do so through the devolving of duties.

PARLIAMENTARY ACTIVITY

This Institution's parliamentary activity in 2013 has increased significantly compared to other years. The Ombudsman Institution, which is the High Commissioner of Spanish Parliament, must inform Parliament in a timely fashion as to the activities carried out thereby, not solely on the occasion of the presentation of the annual report, but also for keeping the deputies and senators informed as to what problems Spain's citizenry finds to be cause for concern.

The activity reports are the main formal connection between the Congress of Deputies and Senate and this

Institution, as is set forth under law, but the relations between them also encompass another type of activities for collaboration and even taking joint action. This is the case of the extraordinary appearances requested by one parliamentary commission or another at some given point in time or the remittal of complaints which the citizens may lodge with the respective Rogatory Committees of the Congress of Deputies and Senate.

The main Institutional management report reflecting the activity of the Ombudsman Institution in 2012 was presented at the Congress of Deputies and Senate registries and delivered in person to the President of the Congress of Deputies and to the First Vice President of the Senate on February 27th, an all-time record in this Institution's history. Following its processing through Parliament, the report was debated before the Joint Commission on March 12th. The other appearances before the plenary sessions of both Houses regarding the 2012 Annual Report took place on Mary 21st and April 10th, respectively. The presentation within the first quarter of the year is truly important, so that the members of Parliament may avail of up-to-date knowledge of the problems which are affecting the citizenry.

Also on that same April 10th, the Ombudsman appeared before the Constitutional Commission of the Congress of Deputies for informing regarding the Transparency, Access to Public Information and Good Governance bill.

In addition to the above, the Ombudsman presented to the Congress of Deputies and Senate monographic studies such as **“Preferred Shares: Actions and**

Suggestions by the Ombudsman", debated in conjunction with the reports from the Ombudsman Institution in its capacity as a National Prevention Mechanism Against Torture for the years 2010, 2011 and 2012 in the Joint Commission for Relations with the Ombudsman on May 28th. The studies on **"Making Textbooks Free: Programs, Aid, Loans and Reuse"** and **"Economic Crisis and Personal Insolvency: Actions and Suggestions by the Ombudsman"** were debated at said commission meeting on November 19th along with the study on **"Human Trafficking in Spain; Invisible Victims"**, which had been presented to the Congress of Deputies and Senate in 2012 and which was updated with the follow-up on their recommendations put forth. The study **"Vacant Government-Subsidized Housing"** was also presented on March 21st.

Similarly, the report which this Institution had commissioned to the University of Granada on "The Implementation of Alternatives to Prison Sentences in Spain" was also presented to the Congress of Deputies and Senate.

On the initiative of the Ombudsman Institution and as a new aspect in the relations with Spanish Parliament, the Ombudsman appeared before the Joint Commission for Relations with the Ombudsman Institution on October 22nd for the purpose of reporting on the current status of the activity which this Institution had been carrying out over the course of the first three quarters of the year.

RELATIONS WITH THE AUTONOMOUS COMMUNITY PARLIAMENT COMMISSIONERS

The epitome of the coordination between the Ombudsman of Spain and the different Autonomous Community Commissioners consists of the traditional Coordination Meetings being held. In 2013, the **28th Coordination Conference with the Ombudsmen** from the different Autonomous Communities was held in Lanzarote, under the coordination of the Autonomous Community of the Canary Islands Ombudsman on October 30-31 concerning the "application in Spain of the United Nations Convention on the Rights of Persons with Disabilities". The main topic was the application in Spain of the United Nations International Convention on the rights of persons with disabilities and the Optional Protocol thereof.

On March 19th, the first of the workshops in preparation for the Coordination Conference on the subject of "The Adaptation of the Spanish Legal System and the Autonomous Communities to the Human Rights Convention of Persons with Disabilities (CDPD), Social Welfare Policies" was held at the Ombudsman Institution headquarters in Madrid.

For the preparation of this Conference, another two workshops were held: "Employment and Taxation in the Light of the Convention on the Rights of Persons with Disabilities" (Barcelona, April 22nd) and "Accessibility and Citizen Participation in the Light of the Convention on the Rights of Persons with Disabilities" (Leon, May 29th).

The document setting out the conclusions of the Coordination Conference is provided in the respective annex.

Apart from the foregoing, the Ombudsman continued her **bilateral contacts** throughout the year with some of the heads of the different Autonomous Communities. Thus, in January, she met with the Ombudsman from the Autonomous Community of Navarre, Francisco Javier Enériz Olachea (January 22nd); the Ombudsman from the Autonomous Community of Andalusia, José Chamizo (March 6th) and the Ombudsman from the Autonomous Community of Catalonia, Rafael Ribó (September 23rd).

On June 20th, the First Deputy Ombudsman attended the investiture of the new Ombudsman for the Autonomous Community of Andalusia, Jesús Maeztu.

On July 2nd, the Ombudsman received the visit of the Attorney General of the Principality of Asturias, Antonia Fernández Felgueroso, to discuss the management of possible matters pending on the part of the Institution in Asturias following the publication of the law eliminating said Institution effective as of January 1, 2014.

WORKING MEETINGS WITH AUTHORITIES, CITIZENS AND SOCIAL ORGANIZATIONS

The Ombudsman Institution is an institution which has the privilege of being able to gain a close-up view of the problems, opinions and concerns of the citizenry and organizations of the civil society. Therefore, there are many get-togethers and meetings which are for

the purpose of learning of these circumstances and also for obtaining the opinion of those in charge of the Administration per se, when the importance of the matters at hand requires a direct exchange.

The complete list of the working meetings which have been held at the headquarters of this Institution over the course of this year, which is provided in full in the volume containing the annexes, reflects the main matters dealt with by this Institution in 2013.

For more ready comprehension on the part of readers, these meetings are divided into two groups: those which are held with government authorities and leaders and, quite outstandingly, those held with individual private citizens, social groups and organizations from the civil society, the main objective of which is normally that of their conveying the details of the problem affecting them directly, in person, to the Ombudsman.

Several citizen platforms came to this Institution over the course of this past year for the purpose of providing a first-hand explanation as to their work and their requests concerning problems of different kinds.

Such were the cases of the **Spanish Society for Emergency Medicine and Emergency Care (SEMES)**, the **Spanish Association Against Cancer (AECC)**, the **Spanish Doctors of the World**, the **Spanish Medical Oncology Society (SEOM)**, the **Platform of Those Affected by the Preferred Shares**, the **Yay@flautas** senior citizen defense group, **Unicef**, the **National Textbook and Teaching Material Publishers' Association (ANELE)**, **Cáritas**, the **Association for the Prevention of Traffic Accidents (PAT)**, **"Pueblos Unidos"**, the **Tertiary Sector Platform**, companies related to the new social communications media such as **Facebook** or **Tuenti**, the **Spanish Society of Authors and Publishers (SGAE)**, the **State Federation of Lesbians, Gays, Transsexuals and Bisexuals**, the **Spanish Paralympic Committee**, the **United Nations High Commissioner for Refugees (UNHCR)** and the **Spanish Council of Court Attorneys**.

At some of these meetings, the groups took advantage of the occasion to present their petitions, in person, for the filing of appeals before the Constitutional Court. This is the case of the **Association of Medical Specialists of Madrid (AFEM)**, the **General Council of Official Associations of Pharmacists of Spain** and the **Official Association of Pharmacists of**

Valencia, the **"Justice For All Platform"**, the **National Institute of Toxicology and Forensic Sciences**, and environmental organizations such as **Greenpeace-Spain**, **SEO Birdlife**, **Ecologists in Action**, **Friends of the Earth** and **WWF Spain**.

In 2013, the Ombudsman continued her work of supporting the main **nationwide associations and foundations devoted to the memory of the victims of terrorism**, focusing special attention on the problems affecting them, such as the effects of the **European Court of Human Rights ruling of October 21, 2013**, against what is known as the **"Parot Doctrine"**. Thus, meetings were held with the **Victims of Terrorism Foundation**, the **Dignity and Justice Association**, the **Association of Those Affected by 11-M** and the **Andalusian Association of Victims of Terrorism**.

Other meetings of major importance with citizen groups have to do with issues concerning a more limited geographic or subject-related scope. Some examples for note are the Ombudsman's meeting with the residents of the town of Mijas (Malaga) affected by the forest fire which occurred in September-October 2012 in the area of Entreríos, or the Ombudsman's meeting with the Works Committee from the ROCA Company in Seville.

For the preparation of this Institution's monographic studies and some documents of singular importance, meetings have been held with experts on different subjects. For example, for the preparation of the report on **"Vacant Government-Subsidized Housing"**, the opinions of university experts and persons responsible for institutions related to real-estate matters were gathered.

The meetings with **Administration authorities and officials** also serve the purpose of achieving better results and engaging in constructive dialog with the public administrators for providing the best possible solutions to the issues normally dealt with in the complaints and ex-officio investigations. In 2013, special mention may be made of the meetings with the Minister for Justice for the purpose of conveying to him the recommendations put forth on Law 10/2012 governing certain fees within the scope of the Administration of Justice and the National Institute of Toxicology and Forensic Sciences; the meeting concerning Spanish citizens imprisoned abroad with high-ranking officials of the Ministry of Foreign Affairs and Cooperation; with the Vice-President

of the Government for presenting to her the latest monographic studies; with the Secretary General for Immigration and Emigration; with representative from the State Attorney General's Office; with the Secretary of State for the European Union and with the Secretary of State for the Environment for the purpose of putting forth thereto the recommendations made concerning Law 2/2013 of May 29th on Protection and Sustainable Use of the Coast and amendment of Coastal Law 22/1988 of July 28th.

In addition to meetings and interviews with the Administration and civil society, this Institution organizes **technical working conferences** on issues which have a bearing on fundamental rights and liberties proclaimed in our Constitution.

On June 27th, the Ombudsman officially opened the working conference **"Moving Ahead in the Improvement of the Procedure of the Description and Identification of Underage Foreign Nationals Entering Spain Accompanied by Adults"**.

This meeting, coordinated by the Deputy Ombudsmen, was attended by representatives from the Attorney General's Office, the Ministry of Employment and the Ministry of Health, the Autonomous Community Juvenile Protection Institutions and the State Law Enforcement Bodies.

The protocols and tools currently used in the prevention and detection of trafficking of undocumented minors, the situation in which the sub-Saharan minors heading for Europe find themselves in Morocco, and the DNA test-based genetic testing were analyzed and discussed.

In October, four working conferences were held on **"Minors Before the Courts: Some Problems and Suggestions"**.

Officially opened by the Ombudsman and coordinated by the Second Deputy Ombudsman, Concepció Ferrer, in attendance were representatives from the judiciary, attorney general's office, bar associations and the different administrations, as well as from non-governmental organizations.

Over the course of these sessions, viewpoints were shared and discussed concerning the judicial guarantees in the adoption of measures for safeguarding at-risk or defenseless minors and on the involvement of children in the family processes.

A study setting out the conclusions of these meetings is planned to be published in 2014.

The Ombudsman usually takes advantage of her trips to different points around the country to hold **meetings with the Autonomous Community or Municipal authorities**. Thus, in 2013, she has met with the Presidents of the Autonomous Communities of Extremadura, Valencia, the Principality of Asturias, Galicia and Andalusia.

Worthy of special mention is the Ombudsman's institutional visit to Murcia and Lorca on July 15th, where she met with the President of the Autonomous Community of the Region of Murcia and subsequently with the Mayor of Lorca and several representatives from the Platform of Those Affected and from the "We Are Lorca" Association. She also visited the neighborhood of La Viña, the area most affected by the earthquakes which took place there on May 11, 2011.

The activity of supervising the public administrations which the Ombudsman Institution carries out is rounded out with the **in situ inspection of the offices and facilities where the different administrative institutions carry out their activities**. In addition to the visits made to facilities for the deprivation of liberty in its capacity as a National **Preventive Mechanism Against Torture**, regarding which a detailed account will be provided in the respective report on this subject, this Institution wants to be out among the citizenry for checking to ensure the effectiveness of the public management of the different facilities and services.

As is reflected in the respective annex, a considerably greater amount of work has been done in 2013 with nearly 100 facilities having been visited, many of which were visited in person by the Ombudsman or by her Deputy Ombudsmen.

The design of the NPM has been fully completed in 2013 with the public announcement calling for the nomination of members of the Advisory Council (Spanish Official Gazette of March 13, 2013) and the appointment thereof (Spanish Official Gazette of May 25, 2013).

The Advisory Council is a body for technical and legal cooperation with the Ombudsman Institution in the exercise of its duties as a NPM, the organization, composition and functioning of which is set forth under Articles 19 and 20 of the Ombudsman Institution

Organization and Operating Regulation and through which a permanent channel for cooperation and dialog with the civil society is established.

On June 26th, the Ombudsmen presided the **first Advisory Council meeting**, attended by the Deputy Ombudsmen and the appointed members: the attorney and President of the Bar Association of Santa Cruz de La Palma, Milagros Fuentes; the physician and Vice-President of the Medical Association of Ourense, Berta María; the clinical psychologist and Vice-President of the Official Association of Psychologists of the Autonomous Community of Valencia, Vicenta Esteve; the member of the U.N. Subcommittee for the Prevention of Torture, Emilio Ginés; the professor of Philosophy of Law and former President of the Spanish Refugee Aid Commission (CEAR), Francisco Javier de Lucas; the professor of International Public Law and former Chairman and member of the United Nations Committee Against Torture, Fernando M. Mariño; the attorney specializing in Penitentiary Law and professor of Criminal Law, Julián Carlos Ríos and the Lawyer specializing in Human Rights, Yolanda Román.

These last five members were elected from among the candidacies presented in a public calling before the Ombudsman on a personal basis or in representation of organization or associations representative of the civil society.

The first regular Advisory Council meeting subsequently took place on December 16, 2013, at which the items on the agenda included reporting the activity carried out by the NPM in 2013, suggestions having been put forth as to the matters to be looked into on the **visits to be made in 2014**, as well as the **participation of the members as observers** on the visits made by the NPM, members of the Advisory Council hence having been present on 4 of the visits made.

OFFICIAL MEETINGS AND EVENTS

The Ombudsman and the Deputy Ombudsmen are often invited to the events of an official nature and also to different commemorative events and meetings of public importance. This section is devoted to the attendance at awards ceremonies, presentation of reports, investitures of high-ranking officials and the annual events on the occasion of Spain's National Holiday or Constitution Day.

On May 28th, the Ombudsman was received in audience by His Royal Highness the Prince of Asturias at the Zarzuela Palace.

The head of this Institution attended the formal sitting held at the Congress of Deputies on June 27th honoring the victims of terrorism and the formal ceremony commemorating the 9th Anniversary of the 11-M Attacks in Madrid.

Also in Parliament, the Ombudsman attended the reception given by the President of the Congress of Deputies on the occasion of the commemoration of Police Day.

On June 13th, the Ombudsman attended the investiture of the Constitutional Court Magistrates Martínez-Vares, Xiol Ríos, González-Trevijano and López y López; and on December 12th, the investiture of the General Council of the Judiciary, Carlos Lesmes Serrano.

COLLABORATION, DISSEMINATION AND PUBLIC COMMUNICATION ACTIVITIES

This section is devoted to providing information on the activities carried out by this Institution aimed at making the work done by the Ombudsman Institution better known by the public. A description is provided firstly of the **activities for collaboration** with other social institutions or entities. Secondly, an account is given of the **publicizing activities**, reflecting the participation of those making up this Institution in different academic and social forums. This dissemination of the work done by this institution is indispensable for increasing citizen awareness as to the work which is done through this Institution from which the citizenry may benefit.

In the respective annex of this report, a list is also provided of the visits which different cultural associations, schools or social centers made to the headquarters of this Institution for the purpose of getting a close look at how it functions as well as learning about the historic-artistic details of the Ombudsman Institution Headquarters building in Madrid.

Worthy of special mention under this heading is the event held on September 27th last in commemoration of the **Thirtieth Anniversary of the Ombudsman Institution in Spain** held at the Senate Building.

This was a day when a debate was held concerning the Ombudsman concept and the challenges which the institutions defending human rights are facing.

Also taking part in this inauguration ceremony in conjunction with the Ombudsmen were the President of the Senate, the Chief Justice of the Constitutional Court and the Chief Justice of the Supreme Court, representatives from other European and Ibero-American Ombudsman institutions as well as international organizations such as the Council of Europe also having participated.

The First Deputy introduced “The Constantly-Evolving Ombudsman Concept” given by Álvaro Gil Robles, a former Ombudsman and former Council of Europe Human Rights Commissioner.

The Second Deputy, in turn, served as the moderator for the round table discussion “The Future Challenges of the Human Rights Institutions”.

For many years, the Ombudsman Institution has been working jointly with the **University of Alcalá** on different projects. Several meetings were therefore held with the Chancellor and the professors from the Democracy and Human Rights Department in 2013 for planning and evaluating the academic activities in which the Ombudsman Institution collaborates.

Worthy of special mention within this scope of cooperation is the awards ceremony for the **5th King of Spain Human Rights Award** granted jointly with the University of Alcalá on September 10th last.

The awards ceremony presided by His Majesty the King was held at the University of Alcalá Auditorium. The award was given to the organization «National Network of Civil Human Rights Organizations “All Rights for One and All” (Red TDT) » of Mexico.

This network is comprised of 73 organizations present in 21 states of the Republic of Mexico. Its work revolves around the defense of the rights of women, the rights of the native peoples, the economic, social, cultural and environmental rights, safety and justice, the public human rights system in Mexico and collaboration with other organizations defending human rights.

As far as the acts of disseminating and making known to the public the activities carried out by the Ombudsman Institution, several groups of **students from different academic institutions and other institutions** were received in 2012.

Some of these study visits included those of the civil servants from the 47th Graduating Class of the Higher Corps of State Civil Administrators; members of the Complutense University Alumni and Friends of the University Association; the CEU Universitas Senioribus Association; the Delegation of Latin American Parliamentary Advisors comprising the 11th Course for Parliamentary Advisors organized by the Congress of Deputies; students from the master's degree program organized by the General Council of the Judiciary for Ibero-American magistrates and judges; students from the master's degree program organized by the Center for Political and Constitutional Studies and Menéndez Pelayo University; students from DePaul University in Chicago in collaboration with the Comillas Pontifical University (ICADE) and North American students from the Carlos III University in Madrid.

In addition to these visits to the headquarters of this Institution, the Ombudsman, the Deputy Ombudsmen and other in-house experts have taken part in different forums for debate for giving **lectures on this Institution and the scope of its work as a guarantee of civil rights**. This is the case of the annual address for the University of Alcalá Master's Degree Program in International Human Rights Protection; the closing address by the Ombudsman for the University of Salamanca Master's-Doctorate Degree Program in Interdisciplinary Gender Studies; the lecture given by the Ombudsman regarding this Institution at the General Council of the Judiciary Summer School or the presentation given by the Ombudsman at the 7th Human Rights Seminar organized by the Diplomatic School in Madrid.

Other meetings and conferences took place in opinion forums or specialized conferences, such as the Ombudsman's lecture-breakfast regarding this Institution at the European Tribune Forum; the lecture given by the Second Deputy Ombudsman on “The Ombudsman Institution and Safeguarding Children's Rights” at the Juvenile Abuse Assistance Conference; “From the Emergency Care to Final Intervention: Networking”, organized by the Madrid Municipal Emergency Care and Rescue Service Samur-Civil Defense of Madrid or the lecture given by the Ombudsman at the “World Food Day” Conference organized by the Food Bank and the Official Association of Economists.

The details as to the dates and venues of these activities are available in the respective annex of this report.

INTERNATIONAL ACTIVITY

The Ombudsman Institution is the National Human Rights Institution in the nomenclature of the United Nations. Therefore, it takes part over the course of the year in activities of international importance which are detailed in this section.

Firstly, reference is made to those held within the scope of bilateral collaboration with other institutions devoted to safeguarding rights and liberties homologous to the Ombudsman Institution in other countries and, afterward, the main details are provided of the main international meetings in multilateral forums in which this Institution actively took part in 2013. Lastly, an account is provided of the main courtesy visits and meetings which took place with leading figures and authorities from other countries.

Particularly outstanding among the relations of **cooperation with other similar institutions** from abroad is the award this past May to the consortium comprised of the Ombudsman Institution of Spain and the Ombudsman Institution of France, of a new **twinning project funded by the European Commission**, in this case as **aid for the process of getting the new Ombudsman Institution of the Republic of Turkey** under way. This is a new project in association with the Ombudsman of France which is being led by the Spanish Ombudsman Institution, which will be embarking upon this endeavor in early 2014. This project will be of a two-year duration, during which an expert appointed by the Ombudsman Institution shall be serving as the coordinator in Turkey for the different exchange and training activities planned in the project.

This is a highly important project, not only due to its being an Institutional contribution to building "Spain's Image", but also due to the interest on the part of the country for which it is being offered, a candidate for entry into the EU and one of the most highly-populated countries in our geographic area. These projects also reinforce the functions of our diplomatic service and will familiarize the countries where they are carried out with the Spanish ways of working and the culture of Spain.

The economic costs of these projects are paid for in full by the European Union via the Instrument for Pre-Accession Assistance (IPA funds) and are therefore not in any way whatsoever a burden on the Ombudsman Institution.

Over the course of 2013, this Institution has hosted the visits of several ombudsmen from other countries interested in our experience and for boosting mutual collaboration in the management of matters of shared interest. Some of the most outstanding of these visits include that of the Ombudsman of France (February 27th), the **European Ombudsman** (March 19th), the **Ombudsman of Montenegro**, on a visit sponsored by the OSCE (April 9-10), that of the **Ombudsman of Portugal** (April 11), that of the **Ombudsman from Albania** made within the framework of an EU TAIEX program (April 16th), the visit of a delegation from the **Ombudsman Institution of the Ukraine**, sponsored by the OSCE (September 9-10) and that of the **Ombudsman from Mozambique** (October 28th).

On the occasion of the 30th Anniversary Celebration of the Ombudsman Institution, the Ombudsman was accompanied by the Presidents of the Ibero-American Federation of Ombudsman (FIO) and of the Association of Mediterranean Ombudsmen (AOM), as well as by representatives from the Ombudsman Institution offices in the following countries: Brazil, Colombia, Costa Rica, Mexico, Panama, Paraguay, Peru, Puerto Rico, Uruguay, Venezuela, Belgium, Portugal, Hungary, Andorra and Albania.

Within the framework of these working relations, this Institution has continued collaborating with the Program in Support of Democratic Governance Processes in the Arab World, known as the MASAR program, which has been promoted by the Spanish Cooperation for Development Agency. In January, the **National Human Rights Commission of Mauritania** visited this Institution, headed by its Chairman and members of its National Bar Association.

Within the framework of that same program, the working visit of a delegation from the office of the **Ombudsman of the National Council for Women of Egypt** also took place on October 29-30, 2013.

Under the heading of **international meetings in multilateral forums**, the **26th Annual Meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)** was held, as every year, in Geneva, under the auspices of the United Nations (U.N.) Organization, more specifically with the organizational help of the Office of the High Commissioner for Human Rights.

This international coordinating committee groups together the institutions which constitutionally have

the duty of protecting and promoting human rights in each country independently of the governments, such as the case of the Ombudsman Institution in Spain. Precisely at said meeting, the committee reaccredited the Spanish Ombudsman Institution for the second time as **an A-level institution** (fully conforming to the Principles of Paris, compliance therewith denoting the degree of independence of these Institutions). This reaccreditation affords a total interaction with the United Nations and other international organizations dedicated promoting human rights.

In June, the Conference on “Impacts of the Austerity Measures on Second-generation Human Rights”, organized by the European Groups of National Human Rights Institutions (EGNHRI) of which the CIC comprises part, was held in Brussels with the participation of the First Deputy Ombudsman.

Another outstanding meeting in 2013 was the **7th Meeting of the Association of Mediterranean Ombudsmen**. This organization initially promoted by Spain’s Ombudsman Institution, the Ombudsman Institution of France and the Ombudsman of the Kingdom of Morocco, is aimed at fostering dialogue among the countries in the Mediterranean Basis for bolstering the democratic processes and enhancing citizen assistance through the consolidation of the official Ombudsman Institutions. The General Assembly of this Association approved a declaration at its meeting in Amman (Jordan) on June 10th-11th, in which its expressed its concern for the continual violations of human rights in the region. The subject of how the Ombudsman Institution can effectively manage citizen complaints was also discussed.

Apart from the above, the annual **General Assembly of the Ibero-American Federation of Ombudsmen** was held in San Juan, Puerto Rico on November 5-7, 2013. In parallel to the Assembly, at which the Ombudsman took part in the round table discussion on “Ombudsmen as Supervisors of Good Citizen Governance”, brought together the three theme-based networks comprising the FIO: the FIO Communications Network, the Women’s Network and the Childhood and Adolescence Network, and the 11th FIO Report was presented on the environment.

At the seminar, by way of four theme-based panel discussions, the Ombudsmen analyzed the new role which they must now take upon themselves for dealing with such current issues as good governance,

safeguarding citizen rights, public policies, corruption or social conflicts.

The Assembly ended with the election of the Chairman of the NHRC of Mexico, Raúl Plascencia Villanueva, as the new President of the FIO to take over for the outgoing Chairman, Anselmo Sella, the National Ombudsman of Argentina.

The Ombudsman also took part in the presentation on “Active Citizen Involvement: the Role of the Ombudsman Institution” in Dublin, Ireland on September 16th-17th at the 9th National Seminar of the **European Network of Ombudsmen**, organized by the European Ombudsman and the National Ombudsman of Ireland.

Lastly, technical experts from this Institution have attended specialized international meetings on different subjects over the course of 2013. This is the case of the international meeting on the “Application of International Human Rights Instruments” organized by the Council of Europe, the European Union Fundamental Rights Agency (FRA) and the European Network of National Human Rights Institutions in Vienna on October 7th-8th and the training course “Promoting the Integration of Migrant Domestic Workers in Europe” organized by the International Labor Organization (ILO) and the European Union in Turin, Italy on February 18-22, 2013.

In conclusion to this section, mention may be made of the **visits of an official nature** to this Institution which have taken place in 2013. One of those worthy of special mention is that of the **United Nations High Commissioner for Human Rights**, at which time the topics discussed included the impact of the economic crisis on vulnerable groups, arrests made on the basis of racial profiling and the follow-up which the Ombudsman Institution carries out regarding the recommendation to Spain which are put forth in the United Nations Universal Periodic Review (UPR); the visit of the **special United Nations rapporteur on Contemporary Forms of Racism**, during which the detention of immigrants on the basis of racial profiling, the conditions of the alien detention centers, the Romani population and xenophobic and hate discourses were discussed; the interview of the Ombudsman with the **United Nations Working Group on Enforced or Involuntary Disappearances**, at which the issue of the stolen babies and that of the historic memory were discussed, the visit of the Executive Secretary General of the **Inter-American Human Rights Commission** and the interview between the

Ombudsman and the **Council of Europe Human Rights Commissioner**, at which the subjects discussed included the effects of the crisis on children and on persons with disabilities and well as police actions at demonstrations.

Several diplomatic corps representatives also came to visit the Ombudsman Institution to meet with the head of this Institution. This is the case of the **Ambassadors** from the United Kingdom, the Islamic Republic of Iran and the Republic of Mali.



SPANISH OMBUDSMAN

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